5–30–06 Tuesday
Vol. 71 No. 103 May 30, 2006

Pages 30559–30792

Federal Register

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.archives.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 71 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.

2. The relationship between the Federal Register and Code of Federal Regulations.

3. The important elements of typical Federal Register documents.

4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, June 13, 2006
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 71, No. 103

Tuesday, May 30, 2006

Separate Parts In This Issue

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
8024.....30559

7 CFR
210.....30561
220.....30561
226.....30561
319.....30563
780.....30568
989.....30574
Proposed Rules:
959.....30629

10 CFR
72.....30576
170.....30722
171.....30722

12 CFR
226.....30577

14 CFR
23.....30577
39.....30577
71 (3 documents) 30579, 30580, 30581
97 (2 documents) 30582, 30584
Proposed Rules:
71.....30631

18 CFR
292.....30585
Proposed Rules:
153.....30632
157.....30632
375.....30632
385.....30632

22 CFR
41.....30589

26 CFR
1.....30591
602.....30591
Proposed Rules:
1.....30640

29 CFR
70.....30762

32 CFR
202.....30719
211.....30608
398.....30608

33 CFR
100 (3 documents) 30609, 30611, 30613
110.....30615
Proposed Rules:
165.....30642

38 CFR
36.....30617

40 CFR
Proposed Rules:
723.....30644

44 CFR
64.....30618

45 CFR
Proposed Rules:
1310.....30645

50 CFR
635.....30619
Proposed Rules:
20.....30786

Federal Register
Vol. 71, No. 103
Tuesday, May 30, 2006

Presidential Documents

Title 3—

The President

Proclamation 8024 of May 24, 2006

National Homeownership Month, 2006

By the President of the United States of America

A Proclamation

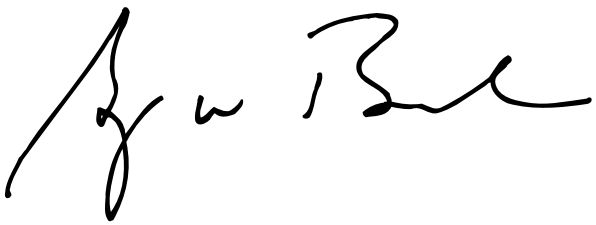
Owning a home is an important part of the American dream. During National Homeownership Month, we raise awareness of homeownership and encourage more Americans to consider the benefits of owning their own home.

Nearly 70 percent of Americans enjoy the satisfaction of owning their own home, and my Administration continues to promote an ownership society where the promise of America reaches all our citizens. The American Dream Downpayment Act of 2003 is helping thousands of low to moderate income and minority families with downpayment and closing costs, which represent the greatest barrier to homeownership. Since 2002, when I announced our goal to help 5.5 million minorities become homeowners by the end of this decade, the rate of minority homeownership has climbed above 50 percent, and more than 2.5 million minority families have become new homeowners. My Administration will continue to provide counseling and assistance for new homebuyers and expand homeownership opportunities for all Americans.

During National Homeownership Month and throughout the year, we applaud the men and women who work to achieve the dream of homeownership, and we are grateful for those who provide counseling, lending, real estate, construction, and other services to these individuals. The hard work, financial discipline, and personal responsibility of our country's homeowners help transform neighborhoods throughout our Nation and reflect the best qualities of America.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution of the United States of America, do hereby proclaim June 2006 as National Homeownership Month. I call upon the people of the United States to join me in building a more hopeful society and recognizing the importance of expanding the ownership of homes across our great Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.



[FR Doc. 06–4983
Filed 5–26–06; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 71, No. 103
Tuesday, May 30, 2006

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 220 and 226

RIN 0584–AD68

Disregard of Overpayments in the Child and Adult Care Food Program, National School Lunch Program and School Breakfast Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements a provision of the Child Nutrition and WIC Reauthorization Act of 2004 by creating uniform regulations related to the disregard of overpayments in the National School Lunch Program (NSLP), School Breakfast Program (SBP), and Child and Adult Care Food Program (CACFP). As a result, this rule codifies longstanding policy related to the disregard of overpayments in the NSLP and SBP, and revises CACFP regulations by increasing the threshold for the disregard of overpayments determined in management evaluations, reviews or audits in a fiscal year to be consistent with the NSLP and SBP.

DATES: The effective date for this rule is June 29, 2006.

FOR FURTHER INFORMATION CONTACT: Keith Churchill, Section Chief, Child and Adult Care and Summer Section, Policy and Program Development Branch, by telephone at (703) 305–2590.

SUPPLEMENTARY INFORMATION:

Background

Section 119(c) of the Child Nutrition and WIC Reauthorization Act of 2004 (Pub. L. 108–265) amended section 17(i) of the Richard B. Russell National School Lunch Act by allowing the Food and Nutrition Service (FNS) and State agencies, when conducting management evaluations, reviews, or audits in the CACFP, to disregard an overpayment to an institution if it does not exceed an amount that is consistent with the disregards allowed in the NSLP and the SBP. The law also required FNS and State agencies to recognize the cost of collecting small overpayments. As these amendments were effective on October 1, 2004, FNS issued guidance informing State agencies of the law's changes on September 17, 2004, ''Overpayment in the Child and Adult Care Food Program (CACFP)''.

Current regulations governing the NSLP and SBP allow the State agency, FNS, or the Office of the Inspector General (OIG), when conducting management evaluations, reviews, or audits, to disregard any overpayment if the total overpayment does not exceed $600 in any fiscal year. In addition, the current regulations also permit the State agency to establish an alternate minimum amount in the case of State agency claims in State administered Programs under State law, regulations or procedure, not to exceed $600, for which an overpayment may be disregarded. These provisions were adopted to relieve FNS and State agencies of the financial and administrative burden associated with collecting small overpayments. Regardless of the disregard threshold, if there is substantial evidence of a violation of criminal law or civil fraud statutes, the disregard of an overpayment is prohibited.

On January 27, 1995, FNS issued ''Clarification of $600 Disregard in Coordinated Review Effort and FNS–640 Reporting,'' a policy memorandum to NSLP State agencies that clarified questions related to the disregard of overpayments when conducting a review. This policy memorandum established that disregards may be granted on a per review basis; that there is only one disregard per school food authority, per fiscal year, per program; that fiscal action must be combined from the administrative review and follow-up review(s) conducted in the same fiscal year to determine if a disregard is available; and that a review is considered to be all the review activity conducted in a school food authority in a given fiscal year (including administrative and follow-up reviews). For example, under this policy, if an overpayment of $400 is discovered during an administrative review and an overpayment of $201 is discovered as part of a related follow-up review during the same fiscal year, then the State agency must collect the $601 overpayment because it exceeds the $600 threshold. Conversely, if an overpayment of $300 is discovered during an administrative review and an overpayment of $100 is discovered in each of two related follow-up reviews during the same fiscal year, the State agency would not be required to collect the $500 overpayment, unless required by State law, regulation, or procedure. In addition, the policy memorandum established that the fiscal year is the year in which the review activity was conducted, and not the year for which fiscal action was calculated. For instance, if a review of the activity in August 2005 (FY 2005) was conducted during the month of October 2006 (FY 2007), a disregard may be granted for fiscal year 2005. This rule amends NSLP and SBP regulations by codifying these longstanding policies and amends CACFP regulations to create a uniform requirement for the three programs.

The intent of the provisions outlined in this rule is to create an efficient, cost-effective process in collecting overpayments; therefore, this rule applies independently to management evaluations, reviews and audits, i.e., an overpayment discovered during an administrative review would be treated separate and unique from an overpayment discovered through an audit during the same fiscal year. Overpayments assessed in a management evaluation, review or audit shall not be combined but assessed separately and; therefore, the disregard is considered for each individual occurrence.

Executive Order 12866

This final rule has been determined to be significant and was reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

Regulatory Impact Analysis

Need for Action

A regulatory impact analysis was conducted to determine the administrative and economic impacts of the rule. Because data on the current level of overclaims and disregards in the CACFP is limited, data on overclaims

and disregards in the school meal programs were used as a proxy for estimating the cost of the rule. If disregard patterns for the CACFP follow those of the NSLP and the SBP, it is expected that claims totaling between $66,000 and $300,000 over a five-year period will no longer be collected.

Benefits

No change in costs for State and local agencies are anticipated due to this rule. Federal and State administrative burdens are estimated to be minimal, due in part to the fact that this level of disregard is already policy for the school meals programs and because of the familiarity with the provision by Federal, State and local operators.

Costs

Based on an assumption that total wages and benefits that may be associated with collecting overclaims could total approximately $130 per hour, five hours spent in processing an overclaim would exceed the $600 disregard threshold. Given that the final rule does not change the way a State agency assesses or collects claims, it is assumed that the increase in the disregard threshold, from $100 to $600, would provide useful but modest relief in the cost incurred collecting claims.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Eric M. Bost, Under Secretary for Food, Nutrition, and Consumer Services has certified that this final rule will not have a significant economic impact on a substantial number of small entities. The requirements implemented in this rule will create a consistent standard for the disregard of overpayments in the child nutrition programs administered by State agencies, while maintaining Program integrity. In short, there will be no adverse impact on small entities operating one or more of FNS' child nutrition programs as a result of this rule.

Unfunded Mandates Reform

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost/benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) that impose costs on State, local, or tribal governments or to the private sector of $100 million or more in any one year. This rule is, therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

The Child and Adult Care Food Program, the National School Lunch Program, and the School Breakfast Program are listed in the Catalog of Federal Domestic Assistance under Nos. 10.558, 10.555, and 10.553, respectively. For the reasons set forth in the final rule in 7 CFR part 3015, subpart V and related Notice published at 48 FR 29114, June 24, 1983, these programs are included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132. FNS has considered the impact of this rule on State and local governments and has determined that this rule does not have federalism implications. This rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under section 6(b) of the Executive Order, a federalism summary impact statement is not required.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the **DATES** paragraph of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the CACFP, the administrative procedures are set forth at 7 CFR 226.6(k). In the NSLP and SBP, the administrative procedures are set forth at 7 CFR 210.18(q) and 7 CFR 235.11(f).

Civil Rights Impact Analysis

FNS has reviewed this rule in accordance with the Department Regulation 4300–4, ''Civil Rights Impact Analysis,'' to identify and address any major civil rights impacts the rule might have on minorities, women, and persons with disabilities. After a careful review of the rule's intent and provisions, FNS has determined that this final rule will not in any way limit or reduce participants' ability to participate in the CACFP, NSLP and SBP on the basis of race, color, national origin, sex, age, or disability. FNS found no factors that would negatively and disproportionately affect any group of individuals.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This rule does not contain information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1995.

Government Paperwork Elimination Act

FNS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Public Participation

This action is being finalized without prior notice or public comment under authority of 5 U.S.C. 553(b)(3)(A) and (B). FNS has determined, in accordance with 5 U.S.C. 553(b), that Notice of Proposed Rulemaking and opportunity for public comments is unnecessary and contrary to the public interest and, in accordance with 5 U.S.C. 553(d), finds that good cause exists for making this action effective without prior public

comment. The provisions of this final rule reflect mandatory statutory requirements which are non-discretionary. See sec. 119(c), Public Law 108–265, 118 stat. 753, June 30, 2004. Moreover, by law these provisions became effective on October 1, 2004. Id., sec. 502(b)(2).

List of Subjects

7 CFR Part 210

Children, Commodity School Program, Food assistance programs, Grants programs—social programs, National School Lunch Program, Nutrition, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR part 220

Children, Food assistance programs, Grant programs—social programs, Nutrition, Reporting and recordkeeping requirements, School Breakfast Program.

7 CFR part 226

Accounting, Aged, Day care, Food Assistance programs, Grant programs, Grant programs—health, American Indians, Individuals with disabilities, Infants and children, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements, Surplus agricultural commodities.

■ Accordingly, 7 CFR parts 210, 220, and 226 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

■ 1. The authority citation for part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

■ 2. In § 210.19, paragraph (d) is amended by removing the fourth and fifth sentences and adding in their place four new sentences to read as follows:

§ 210.19 Additional responsibilities.

* * * * *

(d) * * * In conducting management evaluations, reviews, or audits in a fiscal year, the State agency, FNS, or OIG may disregard an overpayment if the overpayment does not exceed $600. A State agency may establish, through State law, regulation or procedure, an alternate disregard threshold that does not exceed $600. This disregard may be made once per each management evaluation, review, or audit per Program within a fiscal year. However, no overpayment is to be disregarded where there is substantial evidence of violations of criminal law or civil fraud statutes.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

■ 1. The authority citation for part 220 continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

■ 2. In § 220.15, paragraph (d) is revised to read as follows:

§ 220.15 Management evaluations and audits.

* * * * *

(d) In conducting management evaluations, reviews, or audits in a fiscal year, the State agency, FNS, or OIG may disregard an overpayment if the overpayment does not exceed $600. A State agency may establish, through State law, regulation or procedure, an alternate disregard threshold that does not exceed $600. This disregard may be made once per each management evaluation, review, or audit per Program within a fiscal year. However, no overpayment is to be disregarded where there is substantial evidence of violations of criminal law or civil fraud statutes.

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

■ 1. The authority citation for part 226 continues to read as follows:

Authority: Secs 9, 11, 14, 16, and 17, Richard B. Russell National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

■ 2. In § 226.8, paragraph (e) is revised to read as follows:

§ 226.8 Audits.

* * * * *

(e) In conducting management evaluations, reviews, or audits in a fiscal year, the State agency, FNS, or OIG may disregard an overpayment if the overpayment does not exceed $600. A State agency may establish, through State law, regulation or procedure, an alternate disregard threshold that does not exceed $600. This disregard may be made once per each management evaluation, review, or audit per Program within a fiscal year. However, no overpayment is to be disregarded where there is substantial evidence of violations of criminal law or civil fraud statutes.

* * * * *

Dated: May 18, 2006.

Kate Coler,

Deputy Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. E6–8201 Filed 5–26–06; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 02–132–2]

RIN 0579–AB83

Requirements for Requests To Amend Import Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are establishing regulations governing the submission of requests for changes in our regulations that restrict the importation of plants, plant parts, and plant products. We are taking this action because, despite existing non-regulatory guidance on the submission of requests, few applicants provide the basic information we require to properly consider their requests. The new regulations will help ensure that we are provided with the information we need to prepare a risk analysis and/or other analyses that evaluate the risks and other effects associated with a proposed change to the regulations. This information is needed for us to effectively consider the request, and submission of the information at the time the request is made allows us to proceed with our consideration of the request in a timely manner.

DATES: *Effective Date:* June 29, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Griffin, Director, Plant Epidemiology and Risk Analysis Laboratory, Center for Plant Health, Science, and Technology, PPQ, APHIS, 1730 Varsity Drive, Suite 300, Raleigh, NC 27606; (919) 855–7400.

SUPPLEMENTARY INFORMATION:

Background

The regulations contained in 7 CFR part 319 (referred to below as the regulations) prohibit or restrict the importation of plants, plant parts, and plant products into the United States in accordance with the authority conferred on the Secretary of Agriculture by the Plant Protection Act (7 U.S.C. 7701 *et seq.*). The Animal and Plant Health Inspection Service (APHIS) is the United States Department of Agriculture (USDA) agency responsible for (1) enforcing the part 319 regulations and (2) considering requests to amend the part 319 regulations to allow the importation of plants, plant parts, or plant products that are not currently

allowed importation under the regulations.

On October 28, 2004, we published in the **Federal Register** (69 FR 62823–62829, Docket No. 02–132–1) a proposal to amend the regulations by establishing regulations governing the submission of requests to change the part 319 import regulations. We proposed this action because, despite our publication on June 19, 2001, of a notice in the **Federal Register** (66 FR 32923–32928, Docket No. 00–082–1) containing guidance on the submission of information in support of commodity import requests, and despite other existing guidance on this subject, few applicants provide the basic information we require to properly consider their requests. The proposed regulations were designed to help ensure that we are provided with the information we need to prepare a risk analysis and/or other analyses that evaluate the risks and other effects associated with a proposed change to the regulations. This information is needed for us to effectively consider the request, and the submission of the information at the time the request is made allows us to proceed with our consideration of the request in a timely manner. Without the information, we are unable to effectively consider such requests.

We solicited comments concerning our proposal for 60 days ending December 27, 2004. We received nine comments by that date. The comments came from private citizens, nursery owners and growers in the United States, a State agriculture department, and foreign agriculture agencies. The comments were generally supportive of the proposed changes but did raise several concerns related to the proposed rule. These issues are discussed below.

Issue: The information required when import requests are submitted should include the proposed destination of the commodities (*e.g.*, specific States) to facilitate a more objective analysis of risk.

Response: Exporters most often request access to the entire United States or just the continental United States, and the scope of our pest risk analysis (PRA) may reflect that request. We often decide to expand or reduce the scope based on several factors, including in particular the existence of other similar requests or our past experience with trade of the commodity in question. In some cases, an outcome of the PRA process might be a recommendation for limited distribution within the United States as a mitigation measure, but in those cases it is APHIS, not the exporter, that designates the area into which the particular article may be distributed. On rare occasions, an exporter may request access to only a portion of the United States (*e.g.*, to areas that cannot support fruit fly populations); in such cases, limited distribution is an important element of the import request and is highlighted accordingly in the request. Even in such cases, however, it is likely that APHIS would assess the risks associated with the article in relation to the entire United States or the continental United States to ensure that limited distribution can be expected to serve as an adequate mitigation measure.

Issue: If a commodity is already allowed entry into the United States, but is only allowed to be distributed in certain areas of the United States or may only be exported from certain areas in the exporting country, a list of all pests and diseases associated with the commodity proposed for exportation to the United States should not be required.

Response: We agree that in the case of a commodity already allowed entry under one set of mitigations, it may not be necessary for us to prepare a new or updated PRA in order to consider a request to allow entry of the same commodity under a different set of mitigations. In such a case, an update to or confirmation of previously submitted pest and disease information, rather than an entirely new submission, may be appropriate. APHIS will decide on a case-by-case basis whether a complete, formal risk analysis may be required, or whether our understanding of the pests in the exporting country is sufficient to allow us to proceed with our consideration of the request without a new or updated risk assessment. For example, in the case of a request to expand distribution of a commodity to a new region (e.g., to allow an article to be imported into the whole United States when imports are currently limited to the continental United States), we might need to conduct additional pest risk analysis and would need more information. We have added a footnote to § 319.5(d)(4) in this final rule to point out that an update may be appropriate and that a determination as to whether or not that is the case may be obtained by contacting APHIS. Contacting APHIS will allow us to identify the specific information that would aid in our consideration of the request. It is not possible for us to anticipate and specify in advance all of the possible information that may be helpful to evaluating a particular change in the status of a specific commodity. For instance, a change associated with a pest free area will require data regarding pest freedom. The exact nature (quantity and quality) of data required for this purpose will vary with pests, commodities, and origins.

Issue: The information requested under ''Additional Information'' should be made optional for the exporting country, as some of the information requested is very specific and there may not be research available to provide the necessary details.

Response: The information designated by this rule as ''required information'' will be needed at minimum for all commodities. The information designated as ''additional information'' will vary for specific requests and may be critical for determining whether certain commodities should or should not be allowed to enter the United States. APHIS does not intend for all the additional information to be provided for every commodity, but some of it may be required for certain commodities, and it is normally in the exporter's interest to provide such information because it provides details essential to a proper analysis. For example, the susceptibility of particular varieties of fruit to pests can be an important factor in determining host status. In most cases, the variety is not important, but it is a critical issue when the variety is a factor in determining host status. Papayas and avocados in general may represent a risk of introducing fruit flies, but Solo papayas and Hass avocados are poor hosts for fruit flies. Similarly, the unique characteristics of a production area, such as its physical and climatological description, may be important. Altitude and physical barriers such as mountains are likely to play a role in understanding why the pests of concern are not a concern in a particular area. This is important information for the recognition of pest free (or low prevalence) areas.

Rather than make the additional information optional, as suggested by the commenter, we are clarifying in this final rule that such information is not required to be submitted with the initial request, as does the required information, but that APHIS may request any of the additional information if it determines it is necessary for completion of a PRA in accordance with international standards, and because the information is not available from other sources. In such cases, APHIS will notify the plant protection organization of the exporting country in writing as to what specific additional information is required. This additional information applies to those requests where APHIS needs to understand additional details in order to assess the specific situation accurately in the PRA. For example, details such as

whether a fruit is washed with soap, waxed, and culled or only rinsed may be important for determining if certain pests remain associated with fruit or not. In the proposed rule, the additional information items were presented in the **SUPPLEMENTARY INFORMATION** section and not in the proposed regulatory text at the end of the document. In this final rule, we include the additional information items, along with the above explanation as to when and how APHIS may request additional information, in the text of § 319.5 as paragraph (e). The information regarding the availability of additional guidance that had been paragraph (e) in the proposed rule is in a new paragraph (f) in this final rule.

Issue: The required information would be impossible for the discoverer of new species or the small seed importer to provide and would therefore close down research, plant exploration, and new variety introduction. This would injure the small operations in the ornamental horticulture business as well as government crop researchers, botanical gardens, and pharmaceutical companies.

Response: This final rule applies only to applications to change the existing regulations and would primarily affect the importation of fruits and vegetables; it would not affect imported nursery stock unless it was planted in a growing medium. Bareroot plants, seeds, cuttings, and other propagative materials could still be imported without a risk assessment provided these materials are not listed among the items specifically prohibited in the regulations in ''Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products'' (§§ 319.37 through 319.37–14).

While the rule is not intended to restrict small imports, it may limit the ability of individuals without resources who wish to export unique fruits and vegetables to the United States to pursue a request to do so on their own. However, every country that enters into the World Trade Organization (WTO) must have the infrastructure in place to support their exporters. The exporting country is obliged to certify its exports and will need to (1) be able to provide essentially the same information for export certification purposes, and (2) understand the pest situation associated with the commodities it is certifying for export. The rule serves to ensure that the NPPO of the exporting country is officially involved and able to meet its export obligations.

New species for which there is little information available may indeed be adversely affected simply because the uncertainty amplifies the risk. We do not agree that this rule closes down research or injures small operations since it is incumbent on both the importing and exporting countries to ensure that trade in new commodities does not pose an unacceptable phytosanitary risk.

Issue: Because an extensive commodity-initiated PRA needs to be completed by U.S. authorities before a particular commodity can be imported, and that commodity is prohibited importation until then, the United States is effectively taking phytosanitary measures which are not technically justified and are therefore not in alignment with Article 5, section 1 of the WTO's Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). As part of international standards, prohibition of commodities is regarded as a last resort, to be used only when no other satisfactory measure to reduce risk to an acceptable level can be found. USDA should therefore adapt its procedures in accordance with international agreements and standards, such as by granting provisional permission to import new commodities subject to temporary measures such as the requirement for a phytosanitary certificate. Final measures could be imposed following the completion of a PRA.

Response: In this case we make a distinction between commodities that are ''prohibited'' and disciplined by Article 5 of the SPS Agreement, and commodities that are ''not yet approved'' or ''pending evaluation'' and disciplined by Annex C of the SPS Agreement. Articles that are prohibited have been evaluated and prohibition is the measure that has been determined to be appropriate. This status may be changed based on new information and a reevaluation using a PRA. Likewise, pest risk analysis is used to evaluate the risk associated with a request for a new commodity not previously evaluated.

Many commodities are excluded from importation by APHIS in our regulations, and our regulations do not make the distinction between (1) commodities that have been evaluated and prohibited, (2) commodities that are not currently allowed importation but that are undergoing risk evaluation, and (3) commodities that are not allowed importation and for which no request for risk evaluation exists. We recognize that our regulatory terminology is not the same as that used in the SPS Agreement; however, regardless of the semantics, APHIS only allows new imports of fruits and vegetables pending completion of some form of risk analysis that enables us to determine that the pest risks posed by the commodity are known, and that the risks can and will be mitigated. We believe that this policy is consistent with the provisions of the SPS Agreement.

Issue: APHIS should provide a target timeline for the processing of an import request at the time the request is made.

Response: It is not possible for APHIS to provide timelines, as there are far too many variables that can affect the amount of time it takes to approve a new import. Some data take longer to get or generate than others, and limitations on resources may affect how quickly APHIS is able to generate documents. If asked, APHIS will inform an exporter about the status of a particular risk assessment.

Issue: The requirement that the national plant protection organization (NPPO) of the exporting country provide the requested information is not in line with international agreements and may delay the obtaining of the information. Furthermore, the required information may be better provided by other sources, such as research institutions or growers associations based in the country of origin.

Response: The information does not have to originate with the NPPO, but it should be provided through the NPPO to ensure its official status and to be sure that both APHIS and the exporting country's NPPO have the same information. It is essential for the exporting country's NPPO to be actively involved because it will be responsible for implementation of export certification. We note that Article IV of the International Plant Protection Convention (IPPC) lists the responsibilities of an NPPO, and that these include surveillance of cultivated and wild plants ''with the object of reporting the occurrence, outbreak, and spread of pests'' and the conduct of pest risk analyses. Articles VII.2i and j of the IPPC also refer to an NPPO's responsibility to maintain pest lists, conduct surveillance, and make the results of surveillance available to other contracting parties.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis as required by Executive Order 12866 and an analysis of the potential economic effects of this final rule on small entities as required by the Regulatory Flexibility Act. The economic analysis is set out below.

Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of injurious plant pests and noxious weeds.

This rule will require that requests to amend the regulations regarding imported plants, plant parts, or plant products be accompanied by the basic information necessary for APHIS to properly consider such requests. Receipt of necessary information at the time a request to import a currently prohibited commodity is made will help to shorten our process for considering and responding to such requests by minimizing delays in the preparation of risk assessments and other required analyses. Reducing delays in our consideration of import requests will help enhance the standing of the United States as a responsive trading partner.

Commodities in 7 CFR Part 319 Potentially Affected by the Regulations

- Fruits and Vegetables.
- Cotton.
- Logs, lumber.
- Nursery Stock (planted in media).
- Sugarcane.
- Corn, Rice, Wheat, Coffee.
- Packing Material.
- Cut Flowers.

Alternatives Considered

Two alternatives to this rule were considered. The first alternative was to do nothing. This alternative was rejected because the increased volume of import requests and the corresponding increase in the number of risk assessments to be prepared necessitate a mechanism for facilitating the import request process. The second alternative considered was to limit the rule to fresh fruits and vegetables only. Excluding other plants and plant products from this rule was not seen as the most effective regulatory approach, given the growing volume and value of trade in commodities such as grains, cotton, nursery stock, and cut flowers.

Benefits of the Rule

Trade Benefits

Establishing a more efficient process for the consideration of import requests will benefit trading partners seeking to sell their products in U.S. markets by allowing them to bring products to market in the United States in a more timely fashion in those cases where our analyses support a change in existing prohibitions or restrictions. This rule will have a positive effect on U.S. consumers who benefit from increased variety of imported products available in domestic markets and from increased competition and lower prices in affected markets. Enhancing the standing of the United States as a responsive trading partner will help to foster a favorable trade climate with other countries, which can be expected to generally benefit U.S. exporters of fruits, vegetables, and other commodities.

Efficiency Gains

A related benefit of this rule for U.S. interests is internal APHIS efficiency and consistency gains related to processing import requests. Collecting data necessary for risk assessments requires time, which delays processing of import requests.

For the past several years, APHIS has conducted approximately 100 risk assessments associated with import requests per year. Of those risk assessments, 90 percent are routine and 10 percent are complex. Examples of recent complex assessments relate to the importation of citrus from Argentina, clementines from Spain, and citrus from Uruguay. Once initiated, complex risk assessments typically require 2 to 3 months for data collection by APHIS, plus trips to the country of origin; data collection for routine risk assessments usually requires 30 days or less.

Submission of basic information with the import request will substantially decrease the amount of time required for data collection for both routine and complex risk assessments and the need for international travel to collect information. Providing information at the time an import request is made will require some expenditure of time and effort by the applicant. However, assembling data is expected to require substantially less time for the applicant than for APHIS employees, especially if the applicant is in the country of origin. Applicants in the country of origin should have knowledge of the commodity they wish to export and access to the required data.

Even when the risk analysis is not complex, or in cases where a risk analysis may not be required, the information we will require can be used to complete other analyses or documentation required by certain U.S. statutes, such as the Regulatory Flexibility Act, the National Environmental Policy Act, and the Endangered Species Act, to support changes in our regulations. Delays or problems with any of these analyses can affect the timely processing of import requests.

Costs of the Regulations

The regulations will require that the NPPOs of foreign countries provide specific information in support of import requests. This will require an additional expenditure of time and effort on the part of potential exporters and the exporting country's NPPO, but APHIS does not expect major adjustment problems for those entities. Required information about commodities should be known to applicants and readily available.

APHIS believes that the benefits of this rule (streamlining the process for evaluating import requests and reducing costs to APHIS) outweigh the costs to applicants associated with gathering the basic information required by this rule.

Regulatory Flexibility Analysis

As a part of the rulemaking process, APHIS evaluates whether its regulations are likely to have a significant economic impact on a substantial number of small entities. It is unclear whether or to what extent the costs associated with meeting the data requirements of the regulations will be passed on to U.S. brokers/shippers of plants and plant products. More than 11,406 brokers/shippers of plants and plant products would be considered small entities under the Small Business Administration's (SBA) criteria, but we do not expect that the data requirements will have a significant impact on them.

Under the SBA's criteria, an import/export merchant is classified as a small entity if it has 100 or fewer employees.[1] In all cases, these entities can be expected to be affected only to the extent that foreign producers or exporters pass on their additional costs associated with assembling the data required for the original import request, which are expected to be minimal.

According to the most recent information available from the SBA's Office of Advocacy, a total of 5,403 firms comprised the ''Fresh Fruit and Vegetable Merchant Wholesalers'' category in 1999.[2] Seventy-eight percent of these firms (4,227) employed 20 or fewer individuals, and 99 percent of the firms had 500 or fewer employees. Clearly, the majority of fruit and

[1] North American Industrial Classification System code 424480, Fresh Fruit and Vegetable Merchant Wholesalers.

[2] See *http://www.sba.gov/advo/stats/us99_n6.pdf.*

vegetable wholesalers are small entities, having 100 or fewer employees. Other types of wholesalers potentially affected by the regulations (wholesalers of cut flowers and nursery stock, grain and beans, and other farm product raw materials) demonstrate similar demographic profiles, with the majority of firms in each industry considered small under SBA's criteria. Even though the majority of potentially affected wholesalers have 100 or fewer employees, and will thus be classified as small entities, the regulations are not expected to have a significant economic impact on them.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0261.

Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

■ Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. A new ''Subpart-Requests To Amend The Regulations'' (§ 319.5) is added to read as follows:

Subpart—Requests To Amend The Regulations

§ 319.5 Requirements for submitting requests to change the regulations in 7 CFR part 319.

(a) *Definitions.*

Commodity. A plant, plant product, or other agricultural product being moved for trade or other purpose.

(b) *Procedures for submitting requests and supporting information.* Persons who request changes to the import regulations contained in this part and who wish to import plants, plant parts, or plant products that are not allowed importation under the conditions of this part must file a request with the Animal and Plant Health Inspection Service (APHIS) in order for APHIS to consider whether the new commodity can be safely imported into the United States. The initial request can be formal (e.g., a letter) or informal (e.g., made during a bilateral discussion between the United States and another country), and can be made by any person. Upon APHIS confirmation that granting a person's request would require amendments to the regulations in this part, the national plant protection organization of the country from which the commodity would be exported must provide APHIS with the information listed in paragraph (d) of this section before APHIS can proceed with its consideration of the request; requests that are not supported with this information in a timely manner will be considered incomplete and APHIS may not take further action on such requests until all required information is submitted.

(c) *Addresses.* The national plant protection organization of the country from which commodities would be exported must submit the information listed in paragraph (d) of this section to: Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737.

(d) *Information.* The following information must be provided to APHIS in order for APHIS to consider a request to change the regulations in part 319:

(1) *Information about the party submitting the request.* The address, telephone and fax numbers, and e-mail addresses of the national plant protection organization of the country from which commodities would be exported; or, for requests that address a multi-country region, the address, telephone and fax numbers, and e-mail addresses of the exporting countries' national and regional plant protection plant protection organizations.

(2) *Information about the commodity proposed for importation into the United States.* (i) A description and/or map of the specific location(s) of the areas in the exporting country where the plants, plant parts, or plant products are produced;

(ii) The scientific name (including genus, species, and author names), synonyms, and taxonomic classification of the commodity;

(iii) Identification of the particular plant or plant part (i.e., fruit, leaf, root, entire plant, etc.) and any associated plant part proposed for importation into the United States;

(iv) The proposed end use of the imported commodity (e.g., propagation, consumption, milling, decorative, processing, etc.); and

(v) The months of the year when the commodity would be produced, harvested, and exported.

(3) *Shipping information:* (i) Detailed information as to the projected quantity and weight/Volume of the proposed importation, broken down according to varieties, where applicable, and;

(ii) Method of shipping in international commerce and under what conditions, including type of conveyance, and type, size, and capacity of packing boxes and/or shipping containers.

(4) *Description of pests and diseases associated with the commodity*[1] (i) Scientific name (including genus, species, and author names) and taxonomic classification of arthropods, fungi, bacteria, nematodes, virus, viroids, mollusks, phytoplasmas, spiroplasmas, etc., attacking the crop;

(ii) Plant part attacked by each pest, pest life stages associated with each plant part attacked, and location of pest (in, on, or with commodity); and

(iii) References.

(5) *Current strategies for risk mitigation or management.* (i) Overview of agronomic or horticultural

[1] When a change is being sought to the conditions governing the importation of a commodity that is already authorized for importation into the United States, an update to or confirmation of previously submitted pest and disease information, rather than a new, complete submission of that information, may be appropriate. Persons seeking such a change may contact APHIS for a determination as to whether an update will be appropriate in a particular case.

management practices used in production of the commodity, including methods of pest risk mitigation or control programs; and

(ii) Identification of parties responsible for pest management and control.

(e) *Additional information.* None of the additional information listed in this paragraph need be provided at the same time as information required under paragraphs (a) through (d) of this section; it is required only upon request by APHIS. If APHIS determines that additional information is required in order to complete a pest risk analysis in accordance with international standards for pest risk analysis, we will notify the party submitting the request in writing what specific additional information is required. If this information is not provided, and is not available to APHIS from other sources, a request may be considered incomplete and APHIS may be unable to take further action on the request until the necessary additional information is submitted. The additional information may include one or more of the following types of information:

(1) *Contact information:* Address, phone and fax numbers, and/or e-mail address for local experts (e.g., academicians, researchers, extension agents) most familiar with crop production, entomology, plant pathology, and other relevant characteristics of the commodity proposed for importation.

(2) *Additional information about the commodity:* (i) Common name(s) in English and the language(s) of the exporting country;

(ii) Cultivar, variety, or group description of the commodity;

(iii) Stage of maturity at which the crop is harvested and the method of harvest;

(iv) Indication of whether the crop is grown from certified seed or nursery stock, if applicable;

(v) If grown from certified seed or stock, indication of the origin of the stock or seed (country, State); and

(vi) Color photographs of plant, plant part, or plant product itself.

(3) *Information about the area where the commodity is grown:* (i) Unique characteristics of the production area in terms of pests or diseases;

(ii) Maps of the production regions, pest-free areas, etc.;

(iii) Length of time the commodity has been grown in the production area;

(iv) Status of growth of production area (i.e., acreage expanding or stable); and

(v) Physical and climatological description of the growing area.

(4) *Information about post-harvest transit and processing:* (i) Complete description of the post-harvest processing methods used; and

(ii) Description of the movement of the commodity from the field to processing to exporting port (e.g., method of conveyance, shipping containers, transit routes, especially through different pest risk areas).

(5) *Shipping methods:* (i) Photographs of the boxes and containers used to transport the commodity; and

(ii) Identification of port(s) of export and import and expected months (seasons) of shipment, including intermediate ports-of-call and time at intermediate ports-of-call, if applicable.

(6) *Additional description of all pests and diseases associated with the commodity to be imported:* (i) Common name(s) of the pest in English and local language(s);

(ii) Geographic distribution of the pest in the country, if it is a quarantine pest and it follows the pathway;

(iii) Period of attack (e.g., attacks young fruit beginning immediately after blooming) and records of pest incidence (e.g., percentage of infested plants or infested fruit) over time (e.g., during the different phenological stages of the crops and/or times of the year);

(iv) Economic losses associated with pests of concern in the country;

(v) Pest biology or disease etiology or epidemiology; and

(vi) Photocopies of literature cited in support of the information above.

(7) *Current strategies for risk mitigation or management:* (i) Description of pre-harvest pest management practices (including target pests, treatments [e.g., pesticides], or other control methods) as well as evidence of efficacy of pest management treatments and other control methods;

(ii) Efficacy of post-harvest processing treatments in pest control;

(iii) Culling percentage and efficacy of culling in removing pests from the commodity; and

(iv) Description of quality assurance activities, efficacy, and efficiency of monitoring implementation.

(8) *Existing documentation:* Relevant pest risk analyses, environmental assessment(s), biological assessment(s), and economic information and analyses.

(f) *Availability of additional guidance.* Information related to the processing of requests to change the import regulations contained in this part may be found on the APHIS Web site at *http://www.aphis.usda.gov/ppq/pra/.*

(Approved by the Office of Management and Budget under control number 0579–0261)

Done in Washington, DC, this 23rd day of May 2006.

Charles D. Lambert,

Acting Under Secretary for Marketing and Regulatory Programs.

[FR Doc. E6–8238 Filed 5–26–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 780

RIN 0560–AG88

Appeal Procedures

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: In an interim rule that was published on July 27, 2005, and made effective on August 26, 2005, the Farm Service Agency (FSA) amended the regulations for informal agency appeals to make conforming and clarifying changes. This rule adopts the interim rule with some minor clarifying amendments.

DATES: *Effective Date:* This rule is effective June 29, 2006.

FOR FURTHER INFORMATION CONTACT: H. Talmage Day, Appeals and Litigation Staff, Farm Service Agency, United States Department of Agriculture, 1400 Independence Avenue, SW., AG STOP 0570, Washington, DC 20250–0570. Telephone: 202–690–3297. E-mail: *Tal.Day@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 27, 2005, the Farm Service Agency (FSA) published an interim final rule amending the FSA appeal regulations at 7 CFR part 780 (70 FR 43262–43270). The interim final rule became effective on August 26, 2005.

Public Comment

FSA received 20 comments from the public concerning the interim final rule: one comment from the lead plaintiff in class action litigation pending against FSA, one comment from class counsel in that litigation, one comment from a minority advocacy organization, one comment from a farm advocacy organization, two comments from farm advocates, one comment from an organization of recipients of grants under FSA's Certified Agricultural Mediation Program, 7 CFR part 785, and 13 comments from recipients of grants under that program. These comments and FSA's responses are as follows:

Regulatory Definitions

Four respondents made suggestions or questioned certain regulatory definitions. One respondent suggested that the regulation should define ''interested parties'' and ''third parties.'' The substance of this respondent's concern is that all interested and third parties uniformly be given notice and opportunity to participate in mediation. Current rules allow for sufficient and appropriate flexibility in introducing other parties to the mediation. No change to the regulations was found to be warranted.

Two respondents who have served as advocates in appeals suggested that the definition of ''appellant'' should include an appellant's authorized representative, noting a reference to authorized representatives in NAD rules. FSA believes that the change is unnecessary. This comment goes to the authority of authorized representatives to act for appellants, a point not addressed in the rule. NAD's regulatory definition encompassing appellants' representatives has significance in its rules because the NAD Procedure specifically preclude appellants' representatives from submitting requests for NAD hearings or for reviews of NAD hearing officers' determinations by the NAD Director that are ''not personally signed by the named appellant.'' *See* 7 CFR 11.6(b) and 11.9(a)(2). The procedures for agency informal appeals specify no circumstances where an ''authorized representative'' as defined in the interim final rule cannot act for an appellant. Unless the representative's authority is limited in writing by the participant, FSA does not intend to restrict a representative's ability to represent the participant in proceedings governed by part 780.

Two respondents expressed concern that the definition of ''agency record'' in the interim final rule conflicts with the definition of ''agency record'' in the NAD rules. FSA reviewed the corresponding definitions in the two rules and does not perceive a conflict. The definition of ''agency record'' in the NAD rules refers not to ''all records'' as suggested by one respondent, but only to records related ''to the adverse decision at issue.'' In any event, part 780 provides for excluding irrelevant matters. No change in the regulations is needed.

One respondent complained that use of the term ''covered programs'' in 7 CFR 780.6(a) and of ''covered'' in 7 CFR 780.6(c) of the interim final rule was ''cryptic'' and proposed that FSA list examples of such programs. FSA believes that the scope of the interim final rule and programs covered is adequately addressed in section 780.4 of the interim final rule. Section 780.4(a)(1) describes programs to which part 780 applies and section 780.4(a)(3) describes those programs as ''covered programs.''

Appeal Options

Five respondents expressed concern that the interim final rule effected a change in prior rules to require that participants in agricultural credit programs appeal to county and State committees. The respondents' concerns are unfounded. As set forth in section 780.6(b), appeals to county and State committees are not options available to participants in agricultural credit programs.

One respondent expressed concern that the interim final rule can be read as requiring that all agency appeal procedures be exhausted before an appeal to NAD. NAD rules cover NAD jurisdiction. Hence, this comment goes beyond the scope of the current rulemaking. NAD rules do require that decisions by subordinates of county committees must first be appealed to the county committee before any other appeal options are available. Also of note, FSA directives call for incorporating language in decision letters that specifies in detail how participants must be given notice of their options at each stage of decision-making in a covered program.

One respondent expressed concern that the rule will attenuate the appeals process, causing delay and adverse economic impact. For the reasons noted above, FSA also regards that concern as unfounded. Apart from the limitation precluding appeals directly to NAD from decisions of subordinates of county committees, the rule imposes no limitation on participants' option to appeal adverse decisions directly to NAD.

Three respondents from advocacy organizations, a coalition of recipients of certified mediation program grants under 7 CFR part 785, and five State recipients of certified mediation program grants under that part expressed concern that the respective listings of agency informal appeal procedures available in section 780.6 of the interim final rule implied that the options mentioned must be pursued in a particular order. FSA believes that the concerns are misplaced. As noted, pursuant to agency directives, FSA decision letters furnish notice of available appeal or review options that must be incorporated substantially verbatim in all decision letters to participants. The language identifies the options available to participants, but does not presume to advocate which, if any, option a participant should choose. The listings of options available in section 780.6 merely reflect the organization of the interim final rule.

Time Limitation for Filing of Appeal Requests

Two respondents affiliated with advocacy organizations and four State recipients of grants under the certified agricultural mediation program objected that the interim final rule reduces time for participants to request appeals from 30 to 23 days. FSA believes that this concern arises from a misreading of the ''mailing rule'' in § 780.15(e)(2) of the interim final rule. The interim final rule changed prior procedure, which required a participant to appeal within 30 days from the date of an adverse decision letter, so the time limitation to exercise appeal options would be the same for agency informal appeals and appeals to NAD, and would run from receipt of the decision. The rule allows 7 days for receipt. If actual receipt was earlier, the 30-day period runs from that date. No change in the regulation was made.

Non-Appealability of Determinations Under FSA State Executive Directors (SEDs) Special Relief Authority

Two respondents questioned why decisions on equitable relief under the special relief authority granted SEDs under section 1613(e) of the Farm Security and Rural Investment Act of 2002 (2002 Act) (Pub. L. 107–171; 7 U.S.C. 7996) are administratively final and not appealable to NAD. This is statutory. Section 1613(e) specifically vests this statutory authority in the SED and, by statute, it may not be exercised by other agency officials. An SED determination is subject to reversal only by the Secretary, who may not delegate that authority. NAD decides the proper extent of its own authority, however, as neither the NAD Director nor any agency reviewing authority may exercise or reverse the decision of an SED under this special relief authority, such a decision must be administratively final. Also, in contrast to NAD determinations, which are subject to judicial review, *see* 7 U.S.C. 6999, judicial review of SED exercises of the special relief authority granted in section 1613(e) is specifically precluded in section 1613(f). Any appeal to NAD from an SED's denial of relief under the special relief authority granted in section 1613(e) would, therefore, create a statutory conflict. However, denials of equitable relief under other authority in

programs where equitable relief is available are appealable to NAD.

Similarly, an SED's denial of equitable relief under the special relief authority provided in section 1613(e) does not preclude a participant from appealing the underlying adverse decision to NAD if the matter involves disputed issues of fact and is otherwise appealable to NAD.

Appealability of Farm Loan Requests Not Granted Solely Because of Lack of Funding

One respondent questioned the provision in section 780.5(a)(7) that denials because of lack of funding are not appealable. The respondent correctly observed that under the provisions of the Consolidated Farm and Rural Development Act (CONACT), as amended, requests for farm loans that are denied because of lack of funding are not final administrative decisions. Section 331A(a)(4)(A) (7 U.S.C. 1983a(a)(4)(A)) of the CONACT provides that loan requests that are to be disapproved only because of a lack of funding shall not be disapproved but shall be placed in pending status. The lack of finality is also grounds for denying the appeal. However, section 780.5(a)(7) covers other programs, too. Appeals where no relief is possible would include advisory rulings which go beyond the intended scope of these regulations.

Notice of Appeal Rights When Corrections Are Made

One respondent objected to use of the term ''appropriate notice'' in section 780.3(a), contending that participants must be given appeal rights when corrections are made. FSA agrees that certain corrections could be appealable as adverse decisions; however, that is unlikely to be the case as a general rule because corrections, when made, generally have the effect of bringing matters into accord with rules generally applicable in administration of a program. Appropriate notice in such cases may be notice of the correction that has been made. If the change involves no ''new'' decision, advising participants of appeal or review rights could merely create confusion when there could be no possibility for dispute of an issue of fact. FSA, therefore, believes that the term ''appropriate notice'' accurately reflects that circumstances may differ.

Timetable for Notice of an Adverse Decision

One respondent questioned whether the interim final rule requires FSA to give participants notice of their appeal rights along with a notice of an adverse decision and also questioned, as did one other respondent, whether FSA has any discretion to exceed the 10-working day goal for furnishing notice of an adverse decision. The respondent asserts no additional time is permitted because the statutory source of the 10-day provision. FSA agrees that appellants must be given notice of their appeal and review rights in a decision. As a matter of agency policy, mandatory forms for notice of appeal rights available under agency and NAD rules are set forth in agency directives. Accordingly, ''may'' in section 780.7(a) is changed to ''will.''

As for the 10-working day provision, the rule is consistent with the statutory provision but reflects that in certain cases more time may be required to issue an adverse decision that will be accurate and clear. Moreover, the operative date of the decision might be changed to restart the 10-day period. Delay does not shorten the time for a NAD appeal as that time runs from receipt of the notice as determined under NAD regulations.

Reviews of Non-Appealability Determinations by SEDs

Two respondents questioned whether the provision in section 780.5(b) for reviews of appealability determinations by the SED is an ''additional safeguard.'' The provision for appealability reviews by SED's is without prejudice to a participant's right to request an appealability review by NAD and is optional for participants. In addition, as protection for a participant's right to request an appealability review by NAD, the rule provides in section 780.5(c) that an SED's appealability determination is considered a new agency decision. The effect of this provision is to afford a participant a full 30 days from receipt of an SED's appealability determination to request an appealability review from NAD. As FSA's guidelines for determining whether decisions are appealable reflect the same standards as apply in NAD appeals, the main effect of the provision for appealability reviews by SED's is to increase the availability of agency appeals procedures to those who may wish to take advantage of those procedures.

Notice of Appeal Options

One respondent expressed concern that the rule make clear that agency appeals procedures are optional for participants and that participants are not required to request reconsideration of adverse decisions. FSA does not believe any changes to the rule are necessary to address this concern. Options are covered in the determination letters and can vary based on the circumstances. Nothing in the regulations improperly misclassifies an optional procedure as mandatory. Hence, no adjustment was made.

Availability of Agency Directives on the Internet

Two respondents observed that agency directives setting forth generally applicable interpretations of regulations should be available to the public on the Internet. FSA agrees that wide distribution of agency views is beneficial. FSA notices and handbooks are available at *http://www.fsa.usda.gov/pas*. However, no change in the appeal regulations is needed with respect to this comment on information policy.

Appealability of Decisions Based on Rules of General Applicability

One respondent contended that participants should be able to appeal decisions that rely on generally applicable interpretations of regulations. FSA believes that this comment misconstrues the function of the current part 780 administrative appeal process. Neither NAD's appeal process nor FSA's routine appeal process are means available to participants to dispute the validity of agency regulations or their generally applicable interpretations. These limitations do not preclude challenges to the validity of agency regulations and their interpretation in the courts. Nor do they prohibit petitioning policy making officials for a change in general instructions to be acted upon with such additional procedures and modifications as may be warranted.

Implementation of Decisions That Are Administratively Final

Two comments from advocacy organizations contend that all steps necessary to implement a decision must be taken within 30 calendar days after an agency decision becomes a final administrative decision, questioning the term ''to the extent practicable'' in the interim rule. FSA believes that the qualification is an appropriate recognition of what may be feasible depending upon the program that a decision concerns. In cases where a decision involves only a payment of money or a revised determination on program eligibility, implementation can ordinarily occur within 30 calendar days after the decision becomes final. However, if additional information is required from a participant before action can be taken or if other steps are required that cannot feasibly be accomplished within 30 calendar days,

additional time is required. FSA, therefore believes the text of section 780.16 accurately reflect what is statutorily required and is qualified appropriately so as not to be misleading to participants.

Prohibition on Personal Electronic Recordings of Agency Hearings or Other Administrative Review Proceedings

Commenters questioned the prohibition on personal recordings of appeal proceedings in § 780.13 of the interim final rule. The prohibition was inadvertently omitted in the interim final rule that was previously published in 1995. FSA regards this provision as technical and necessary to assure that any record of a proceeding is reliable and made under circumstances that will afford all parties equal access to the appeal record.

Duration of Mediation

The interim final rule incorporated into regulations the guidelines for mediation of program disputes that had been operative under the prior interim rule. In States without a certified agricultural mediation program that is a recipient of a grant under 7 CFR part 785, requests for mediation must be submitted to the SED. When a certified agricultural mediation program is operating in a State, mediation is made available through that program.

FSA received comments from 12 of the 34 State mediation programs receiving grants under part 785 and from an organization representing those grant recipients. The comments from each of these program recipients raised a number of issues stated, for the most part, in substantially identical language. FSA also received comments on the mediation provisions from two advocacy organizations.

Duration of Mediation

Seven of the commenting mediation programs stated that FSA should clarify section 780.9(b) to indicate that a single mediation may involve more than one session. The interim final rule does not preclude multiple sessions or other services as part of a mediation. Therefore, no change in the rule is necessary to accommodate this concern.

Confidentiality in Mediations

One advocacy organization commented that § 780.9(e), providing that mediations shall be confidential consistent with the purposes of the mediation, appeared to conflict with the definition of ''confidential'' in § 780.2. FSA does not believe that the provisions are in conflict. A similar provision for confidentiality in 7 CFR part 785 provides an exception in § 785.9 for purposes of evaluation, audit, and monitoring of certified agricultural mediation programs. FSA agrees with the respondents' observations regarding the importance of confidentiality in mediations. The provision for confidentiality in § 780.9(e) accordingly reflects that confidentiality as appropriate to effect the purposes of the mediation will be protected. Also, the suggestion of four other certified mediation programs that these regulations should be amended to make State law on confidentiality in mediation applicable is not adopted. The standards should be the same nationwide and these regulations reflect that desire.

One mediation program commented that, in the interest of confidentiality, notes by an agency representative during mediation should not be made part of the record that would be submitted to a higher reviewing authority if the mediation is followed by an appeal. FSA agrees with the substance of this comment and believes it is appropriate to incorporate this guideline into agency directives concerning mediation of agricultural program disputes. However, no change in the regulations is needed.

Two other mediation programs questioned procedures for communication by an agency representative in mediation with other FSA officials, one proposing that the consent of other parties should be required as a condition for such communications, the second disputing that any communications among agency officials could be valid and consistent with due process. Such communications are not, as such, addressed in the regulations. The absolute prohibition sought would be inappropriate as communication with other officials may be necessary to the agency conduct of the mediation and other business. Such a limitation would also be impracticable without providing a material benefit. Presumably, all intra-governmental communication will be relevant to the conduct of agency business.

Stay of Time Limitations During Mediation

Five respondents, including three certified agricultural mediation programs, objected that no provision in the interim final rule specifies the effect of mediation on time deadlines for appeals. Accordingly, § 780.15 is amended in this rule to provide that the time period for requesting appeal is tolled by mediation. Likewise, the amendment specifies that the time deadline for payment limitations in 7 CFR 1400.9 are extended. If following mediation there should be a new decision modifying the adverse decision that was mediated, the interim final rule provides a full 30-day period for a participant to exercise any remaining appeal options with respect to the modified decision. An adverse decision that is not modified as a result of mediation is not a new decision.

Waiver of Appeal Options and Withdrawal of Appeals

Six respondents, using substantially identical language, requested that FSA clarify the distinctions between waiver and withdrawal in §§ 780.7(b) and (d) concerning reconsideration, and §§ 780.10(b) and (c) concerning State committee appeals. Section 780.7(b) provides for waiver of reconsideration because reconsideration is available as an alternative to mediation. The rule is sufficiently descriptive. ''Waiver'' properly describes a pre-request disqualification. ''Withdrawal'' properly describes a post-request correction or removal. However, § 780.10(c) is amended to provide that deemed withdrawal of a request for a State committee hearing as a result of a mediation request will not preclude a subsequent request for a State committee hearing.

Contact Information for Certified Agricultural Mediation Programs in Adverse Decisions

One commenting recipient of a grant under part 785 proposed that § 780.9(f) concerning notice of the opportunity for mediation should be amended to include notice of a toll-free telephone number, e-mail address, and Web address for a certified agricultural mediation program, if available. Providing notice of a toll-free number and other means for communicating electronically with a mediation program will, as the respondent noted, facilitate participants' inquires about mediation services that may be available. Three other recipients of grants under part 785 proposed that participants be given notice of the toll-free telephone number for a certified agricultural mediation program, if available.

FSA notes that the rule requires that any request for mediation in an appeal under this rule must be submitted in writing on or before 30 days from the date an adverse decision is received. Contacts with a certified agricultural mediation program by means of a toll-free number are not effective to document when a request is submitted so as to monitor the 30-day limitation for a participant to exercise other appeal rights because that 30-day clock is

stayed from the time mediation begins until it closes. With regard to other means for participants to contact certified agricultural mediation programs, the rule provides sufficient flexibility to enable programs and States to work out procedures without need for revisions to the rule.

This respondent, and four other recipients of grants under part 785, also proposed that mediation programs should consistently be the designated contact to receive mediation requests in states using a certified mediation program. FSA believes that it is appropriate to provide in the rule for variations to meet local circumstances but also anticipates that a certified program will ordinarily be the designated point of contact in a State with a certified agricultural mediation program. As the rule anticipates that a certified agricultural mediation program will ordinarily be the point of contact, but provides for flexibility to accommodate unanticipated circumstances, no change in the rule is necessary.

The recipient of notice will be expected to maintain records of the date when a participant's written request for mediation is received. The records should include a date-stamped original of the participant's written request and a record of the date when a mediation is closed so that the running of or compliance with applicable limitation periods is supported by documentary evidence that may be reliably monitored by FSA, NAD, or others with the authority to monitor appeal procedures.

Participant's Submission of Copy of Adverse Decision With Mediation Request

Six recipients of agricultural mediation program grants under part 785 and an organization of agricultural mediation program grant recipients commented that requiring participants to furnish a copy of the subject adverse decision with a request for mediation is a hardship for participants. FSA notes that the NAD rules require participants requesting NAD hearings to include a copy of the adverse decision with their written request. FSA also notes the concern of many of these same respondents that participants in States with certified agricultural mediation programs should be uniformly instructed to contact the mediation program to request mediation. Requiring a participant to include a copy of the adverse decision seems particularly appropriate in that circumstance to minimize confusion, to provide a reliable check on the timeliness of the participant's request for mediation, and to ensure proper tracking of the request in relation to other appeal processes that a participant may have initiated. Accordingly, no change in the regulation was made.

Mediation as an Alternative Dispute Resolution Technique

As a matter of procedure, the interim final rule is neutral regarding mediation and other participant options for dispute resolution. FSA believes that options should be presented clearly so that participants understand their options and how they may be exercised. In this regard, two respondents questioned the emphasis in the preamble on the requirement that resolutions in mediation must conform to the statutes, regulations, and FSA's generally applicable interpretations of statutes and regulations governing a program as a distinctive feature of mediation of program disputes. FSA agrees with the respondents that mediators, as a general matter, may assist parties in exploring their interests, but does not agree that parties' interests may preempt regulatory or statutory constraints enabling a participant to obtain in mediation a result not legally obtainable by other means. These comments address only text in the preamble to the interim final rule and no amendment to the rule needs to be considered. Any change which would allow local override of national policy are not warranted and contrary to the public interest.

Authority of Agency Representative in Mediation

Two advocacy groups, four recipients of certified agricultural mediation program grants, and an organization of mediation program grant recipients commented that the rule should require that the decision-maker, rather than a designated agency representative, participate in the mediation. One of the respondents indicated that having members of a county committee attend mediation had been workable in some circumstances. FSA believes that it may be appropriate in some circumstances for the official who has issued a decision to attend a mediation session, but for decisions on matters that are delegated only to an SED, State Committees, or county committees, it is an impracticable commitment of resources to require as a general rule that the decision-maker attend a mediation. Also, such participation in mediation would conflict with a decision maker's decision-making role. The rule instead provides that proposed resolutions in mediation will be forwarded to the decision-maker for approval or implementation.

A concern was expressed in comments, in substantially identical language, by two advocacy groups, an organization of agricultural mediation program grantees, and nine recipients of agricultural mediation programs that approval of proposed agreements in mediation by officials with properly delegated authority is contrary to due process and arbitrary. FSA believes that the concern is misplaced. Contrary to the impression of one of these respondents, generally applicable interpretations of program regulations are established by National Office program managers in consultations with other officials and with counsel when appropriate, not by others.

As defined in the rule, mediation is a means to explore parameters for resolution consistent with program requirements in a setting where the mediator has no decision-making power. Under these circumstances, it is unreasonable to suggest that due process is compromised by a review of proposed dispute resolutions by officials with delegated authority who are accountable for administration of the subject programs consistent with national policy. FSA believes that mediation programs and mediators may need to clarify the purpose of mediation, including its limitations, when mediation occurs as an option in the FSA appeals process. The re-delegations of authority within FSA that these comments imply would create substantial risks of inconsistent results and compromised program integrity. Accordingly, the regulation is not changed in response to the comments. Any change that overrides national policy or standards would be fiscally irresponsible and contrary to the public interest.

Termination of Mediation by an SED

Two advocacy organizations questioned the provision in section 780.9(h) authorizing a State Executive Director to determine mediation to be at an impasse. The respondents argue that problems of mediation program mismanagement should be addressed with mediation program managers. FSA concurs that any problems arising in management of agricultural mediation programs must be addressed with the responsible program managers. The authority granted in the rule merely affords a means to deal with such problems as they affect specific mediations that could not otherwise be resolved under regulations to bring the mediations to closure. FSA believes the authority provided is necessary in the

rule, but does not anticipate that the authority granted to an SED under section 780.9(h) is authority that an SED would need to invoke routinely. Accordingly, the regulations are not changed.

Mediation in Advance of an Adverse Decision

In the preamble to the interim final rule, FSA noted that the rule does not establish guidelines for mediations that may occur in advance of any decision that is appealable under the rule. The preamble noted that in certain limited cases where only one issue would be in dispute and some resolution would seem feasible, mediation in advance of an adverse decision could be appropriate. An example would be mediation of a dispute among successors-in-interest with respect to an existing Conservation Reserve Program contract regarding their respective successor shares—an entirely private dispute in which all parties should have a mutual interest to resolve to continue receiving payments.

Seven recipients of agricultural mediation program grants and an organization of mediation program grant recipients commented that the rule should be amended to provide expressly for mediation in advance of an adverse decision. FSA believes that such an amendment is inappropriate because the rule concerns appeals from adverse decisions and rules and procedures for determining what decisions may be appealable. Mediation in advance of an adverse decision may be appropriate in certain cases. This rule, in § 780.9(a), clarifies when a party may request mediation of an adverse decision, but it does not preclude mediation in advance of an adverse decision in appropriate cases. Accordingly, the rule is not changed.

Miscellaneous

Also, these regulations have been amend to correct a reference to an Internet address.

Executive Order 12866

The Office of Management and Budget (OMB) has determined this rule is not significant for the purposes of Executive Order 12866; therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

This rule does not change the information collection requirements of any programs of FSA approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

As stated in the interim final rule, FSA has determined that there will not be a significant economic impact on a substantial number of small entities pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605 (b).

Executive Order 12372

These regulations are not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The provisions of this rule are not retroactive. The provisions of this rule preempt State and local laws to the extent such State and local laws are inconsistent. Generally, all administrative appeal provisions, including those published at 7 CFR part 11, must be exhausted before any action for judicial review may be brought in connection with the matters that are the subject of this rule.

Environmental Evaluation

The environmental impacts of this rule have been considered consistent with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality, 40 CFR parts 1500–1508, and the FSA regulations for compliance with NEPA, 7 CFR parts 799 and 1940, subpart G. Due to this rule's administrative nature, no extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement.

List of Subjects in 7 CFR Part 780

Administrative practice and procedure, Agricultural commodities, Agriculture, Farmers, Federal aid programs, Loan programs, Price support programs, Soil conservation, Wetlands.

■ Accordingly, the interim rule amending 7 CFR part 780 which was published at 70 FR 43262 on July 27, 2005, is adopted as final with the following changes:

■ 1. The authority citation for part 780 continues to read as follows:

Authority: 5 U.S.C. 301 and 574; 7 U.S.C. 6995; 15 U.S.C. 714b and 714c; 16 U.S.C. 590h.

■ 2. Amend § 780.7(a) to read as follows:

§ 780.7 Reconsideration.

(a) A request for reconsideration must be submitted in writing by a participant or by a participant's authorized representative and addressed to the FSA decision maker as will be instructed in the adverse decision notification.

* * * * *

■ 3. Amend § 780.9 by revising paragraph (f)(3) to read as follows:

§ 780.9 Mediation.

* * * * *

(f) * * *

(3) A listing of certified State mediation programs and means for contact may be found on the FSA Web site at *http://www.usda.gov/fsa/disputemediation.htm.*

* * * * *

■ 4. Revise § 780.10(c) to read as follows:

§ 780.10 State committee appeals.

* * * * *

(c) If a participant requests mediation or requests an appeal to NAD before a request for an appeal to the State Committee has been acted upon, the appeal to the State Committee will be deemed withdrawn. The deemed withdrawal of a participant's appeal to the State Committee will not preclude a subsequent request for a State Committee hearing on appealable matters not resolved in mediation.

* * * * *

■ 5. Amend § 780.15 by revising paragraph (c) and correcting the second sentence in paragraph (d) to read as follows:

§ 780.15 Time limitations.

* * * * *

(c) A participant requesting reconsideration, mediation or appeal must submit a written request as instructed in the notice of decision that is received no later than 30 calendar days from the date a participant receives written notice of the decision. A participant that receives a determination made under part 1400 of this title will be deemed to have consented to an extension of the time limitation for a final determination as provided in part 1400 of this title if the participant requests mediation.

(d) * * *A participant does not have the right to seek an exception under this paragraph.* * *

* * * * *

Signed at Washington, DC, on May 10, 2006.

Teresa C. Lasseter,

Administrator, Farm Service Agency.

[FR Doc. E6–8221 Filed 5–26–06; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV06–989–1 FIR]

Raisins Produced From Grapes Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which decreased the assessment rate established for the Raisin Administrative Committee (Committee) for the 2005–06 and subsequent crop years from $11.00 to $7.50 per ton of free tonnage raisins acquired by handlers, and reserve tonnage raisins released or sold to handlers for use in free tonnage outlets. The Committee locally administers the Federal marketing order which regulates the handling of raisins produced from grapes grown in California (order). Assessments upon raisin handlers are used by the Committee to fund reasonable and necessary expenses of the program. The crop year runs from August 1 through July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: *Effective Date:* June 29, 2006.

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California raisin handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable raisins beginning August 1, 2005, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect the action that decreased the assessment rate established for the Committee for the 2005–06 and subsequent crop years from $11.00 to $7.50 per ton of free tonnage raisins acquired by handlers, and reserve tonnage raisins released or sold to handlers for use in free tonnage outlets. Assessments upon handlers are used by the Committee to fund reasonable and necessary expenses of the program. When volume regulation is in effect, an administrative budget funded with handler assessments is developed, and a reserve pool budget funded with reserve pool proceeds is developed. Volume regulation was not implemented for the 2004–05 crop, but is applicable this year. As a result, Committee costs are apportioned between the two for 2005–06 and will be funded appropriately. The $7.50 per ton assessment rate should generate enough revenue to cover the Committee's administrative expenses. This action was recommended by the Committee at a meeting on August 15, 2005.

Sections 989.79 and 989.80, respectively, of the order provide authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California raisins. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

Section 989.79 also provides authority for the Committee to formulate an annual budget of expenses likely to be incurred during the crop year in connection with reserve raisins held for the account of the Committee. A certain percentage of each year's raisin crop may be held in a reserve pool during years when volume regulation is implemented to help stabilize raisin supplies and prices. The remaining ''free'' percentage may be sold by handlers to any market. Reserve raisins are disposed of through various programs authorized under the order. Reserve pool expenses are deducted

from proceeds obtained from the sale of reserve raisins. Net proceeds are returned to the pool's equity holders, primarily producers.

When volume regulation is in effect, the Committee's operating costs (rent, salaries, etc.) are split between an administrative budget funded by handler assessments, and a reserve pool budget funded with proceeds of sales of reserve raisins. In years when the crop is short and no volume regulation is in effect, operating costs are funded by the administrative budget.

Volume regulation was not implemented for the 2004–05 season because the crop was short. Operating expenses were funded by the 2004–05 administrative budget and not apportioned between the administrative and reserve pool budgets. Thus, the Committee's assessment rate increased from $8.00 to $11.00 per ton to cover the higher 2004–05 administrative expenses.

The Committee meets each August to review the ensuing year's crop conditions and financial situation. When the Committee met on August 15, 2005, it recommended two budget scenarios for the 2005–06 crop year to accommodate both situations, because it was not known at that time if volume regulation would be implemented. At that time, it appeared the crop might be short, but the initial crop estimate would not be available until a later date.

Under the first budget scenario with volume regulation, the Committee recommended an administrative budget of $2,062,500, a reserve pool budget of $2,755,500, and a decreased assessment rate of $7.50 per ton for the 2005–06 season. Under the second scenario, with no volume regulation, the Committee recommended an administrative budget of $3,025,000, and a continuing assessment rate of $11.00 per ton.

The Committee met on October 4, 2005, and announced preliminary volume regulation percentages for 2005–06 crop raisins. Raisin deliveries to-date are at a level to warrant the use of volume regulation for the year. This, in turn, supports the Committee's August recommendation to decrease the assessment rate from $11.00 to $7.50 per ton. Handlers are expected to acquire 275,000 tons of raisins during the 2005–06 crop year, which should provide adequate revenue to fund the recommended administrative expenditures of $2,062,500. This compares to budgeted administrative expenses of $3,025,000 for the 2004–05 crop year when volume regulation was not in effect.

Because the 2004–05 administrative budget funded some of the costs typically allocated to a reserve budget, the Committee's 2004–05 expenses were higher than normal. A comparison of 2005–06 recommended administrative expenditures to 2004–05 administrative budget expenditures follows: 2005–06 salaries, $500,000 (2004–05 administrative budgeted expenditures for salaries was $1,000,000); $686,000 for export program activities, ($536,000); $250,000 for compliance activities, ($320,000); $65,000 for group health insurance, ($150,000); $58,000 for rent, ($110,000); $60,000 for Committee member and staff travel, ($120,000); and $30,000 for computer software and programming, ($110,000).

The recommended $7.50 per ton assessment rate was derived by dividing the $2,062,500 in anticipated expenses by an estimated 275,000 tons of assessable raisins. The Committee recommended decreasing its assessment rate because the projected administrative expenses for the 2005–06 crop year are $962,500 less than the 2004–05 administrative expenses. Thus, sufficient income should be generated at the lower assessment rate for the Committee to meet its anticipated expenses. Pursuant to § 989.81(a) of the order, any unexpended assessment funds from the crop year must be credited or refunded to the handlers from whom collected.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and other information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2005–06 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less that $6,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. Eleven of the 20 handlers subject to regulation have annual sales estimated to be at least $6,500,000, and the remaining 9 handlers have sales less than $6,500,000. No more than 9 handlers, and a majority of producers, of California raisins may be classified as small entities.

This rule continues in effect the action that decreased the assessment rate established for the Committee for the 2005–06 and subsequent crop years from $11.00 to $7.50 per ton of free tonnage raisins acquired by handlers, and reserve tonnage raisins released or sold to handlers for use in free tonnage outlets. Assessments upon handlers are used by the Committee to fund reasonable and necessary expenses of the program.

When volume regulation is in effect, an administrative budget funded with handler assessments is developed, and a reserve pool budget funded with reserve pool proceeds is developed. Volume regulation was not implemented for the 2004–05 crop, but is applicable this year. As a result, Committee costs are apportioned between the two for 2005–06 and will be funded appropriately. The Committee recommended administrative expenses of $2,062,500. With anticipated assessable tonnage at 275,000 tons, sufficient income should be generated at the $7.50 per ton assessment rate to meet the Committee's administrative expenses. Pursuant to § 989.81(a) of the order, any unexpended assessment funds from the crop year must be credited or refunded to the handlers from whom collected.

Because the 2004–05 administrative budget funded some of the costs typically allocated to a reserve budget, the Committee's 2004–05 expenses were higher than normal. A comparison of 2005–06 recommended administrative budget expenditures to 2004–05 administrative budget expenditures follows: 2005–06 salaries, $500,000 (2004–05 administrative budgeted expenditures for salaries was $1,000,000); $686,000 for export program activities, ($536,000); $250,000 for compliance activities, ($320,000); $65,000 for group health insurance, ($150,000); $58,000 for rent, ($110,000); $60,000 for Committee member and staff travel, ($120,000); and $30,000 for computer software and programming, ($110,000).

The industry considered an alternative assessment rate and budget prior to arriving at the $7.50 per ton and $2,062,500 administrative budget recommendation. The Committee's Audit Subcommittee met on July 13, 2005, to review preliminary budget information. The subcommittee was aware that 2005–06 crop may be short and no volume regulation may be implemented. The subcommittee, thus, developed two budgets and assessment rates to accommodate a scenario with volume regulation and another scenario with no volume regulation. If volume regulation was not applicable, costs typically allocated to a reserve pool budget would be funded by the administrative budget, thus necessitating a continuation of the $11.00 per ton assessment rate. If volume regulation was applicable, costs would be allocated to an administrative budget and a reserve pool budget and the assessment rate would be reduced to $7.50 per ton. The Committee approved these budget and assessment recommendations on August 15, 2005. Ultimately, the Committee determined that volume regulation was applicable for the 2005–06 crop, and that the lower assessment rate of $7.50 per ton was appropriate.

A review of statistical data on the California raisin industry indicates that assessment revenue has consistently been less than one percent of grower revenue in recent years. A grower price of $1,210 per ton for the 2005–06 raisin crop has been announced by the Raisin Bargaining Association. If this price is realized, assessment revenue would continue to be less than one percent of grower revenue in the 2005–06 crop year, even with the reduced assessment rate.

Regarding the impact of this action on affected entities, this action continues in effect the action that decreased the assessment rate imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers.

Additionally, the Audit Subcommittee's meeting on July 13, 2005, and the Committee's meeting on August 15, 2005, where this action was deliberated were public meetings widely publicized throughout the California raisin industry. All interested persons were invited to attend the meetings and participate in the Committee deliberations on all issues.

This action imposes no additional reporting or recordkeeping requirements on either small or large raisin handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on February 22, 2006 (71 FR 8923). Copies of that rule were also mailed or sent via facsimile to all raisin handlers. Finally, the interim final rule was made available through the Internet by USDA and the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on April 24, 2006, and no comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

■ Accordingly, the interim final rule amending 7 CFR part 989 which was published at 71 FR 8923 on February 22, 2006, is adopted as a final rule without change.

Dated: May 23, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–8207 Filed 5–26–06; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AH87

List of Approved Fuel Storage Casks: VSC–24 Revision 6, Confirmation of Effective Date

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule: Confirmation of effective date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is confirming the effective date of June 5, 2006, for the direct final rule that was published in the **Federal Register** on March 21, 2006 (71 FR 14089). This direct final rule amended the NRC's regulations to revise the BNG Fuel Solutions Corporation VSC–24 cask system listing to include Amendment No. 6 to Certificate of Compliance (CoC) No. 1007.

DATES: *Effective Date:* The effective date of June 5, 2006, is confirmed for this direct final rule.

ADDRESSES: Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. These same documents may also be viewed and downloaded electronically via the rulemaking Web site (*http://ruleforum.llnl.gov*). For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher (301) 415–5905; e-mail *CAG@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6219, e-mail *jmm2@nrc.gov.*

SUPPLEMENTARY INFORMATION: On March 21, 2006 (71 FR 14089), the NRC

published a direct final rule amending its regulations in 10 CFR part 72 to revise the BNG Fuel Solutions VSC–24 cask system listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 6 to CoC No. 1007. This amendment revises the Technical Specifications related to periodic monitoring during storage operations and updates editorial changes associated with the company name change from BNFL Fuel Solutions Corporation to BNG Fuel Solutions Corporation. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become final on June 5, 2006. The NRC did not receive any comments that warranted withdrawal of the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 23rd day of May, 2006.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. E6–8273 Filed 5–26–06; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 226

Truth in Lending (Regulation Z)

CFR Correction

In Title 12 of the Code of Federal Regulations, Parts 220 to 299, revised as of January 1, 2006, on page 284, in § 226.7, the last sentence of paragraph (f) is corrected to read as follows:

§ 226.7 Periodic statement.

* * * * *

(f) * * * If there is more than one periodic rate, the amount of the finance charge attributable to each rate need not be separately itemized and identified.

* * * * *

[FR Doc. 06–55519 Filed 5–26–06; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

Airworthiness Standards: Normal, Utility, Acrobatic, and Commuter Category Airplanes

CFR Correction

In Title 14 of the Code of Federal Regulations, Parts 1 to 59, revised as of January 1, 2006, on page 312, in § 23.1511, remove paragraphs (a)(2)(i) and (a)(2)(ii).

[FR Doc. 06–55518 Filed 5–26–06; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24897; Directorate Identifier 2006–NM–111–AD; Amendment 39–14619; AD 2006–11–15]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170–100 LR, –100 STD, –100 SE, and –100 SU Airplanes; and Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 190–100 LR, –100 STD, and –100 IGW Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all EMBRAER Model ERJ 170 and Model ERJ 190 airplanes. This AD requires revising the Limitations section of the airplane flight manual to prohibit the flightcrew from moving the throttle into the forward thrust range immediately after applying the thrust reverser. This AD results from a report that, during landing, the thrust reverser may not re-stow completely if the throttle lever is moved into the forward thrust range immediately after the thrust reverser is applied. We are issuing this AD to prevent the flightcrew from performing a takeoff with a partially deployed thrust reverser, which could result in reduced controllability of the airplane.

DATES: This AD becomes effective June 14, 2006.

We must receive comments on this AD by July 31, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif

Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227-1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The Departamento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified us that an unsafe condition may exist on all EMBRAER Model ERJ 170 and Model ERJ 190 airplanes. The DAC advises that, during landing, the thrust reverser may not re-stow completely if the throttle lever is moved into the forward thrust range immediately (that is, within 0.2 seconds) after the thrust reverser is applied. If the flightcrew subsequently performs a takeoff, the airplane may become airborne with a partially deployed thrust reverser. This condition, if not corrected, could result in reduced controllability of the airplane. The DAC issued Brazilian airworthiness directives 2006–03–02, effective April 21, 2006 (for all Model ERJ 170 airplanes); and 2006–03–03, effective April 21, 2006 (for all Model ERJ 190 airplanes), to ensure the continued airworthiness of these airplanes in Brazil.

FAA's Determination and Requirements of This AD

These airplane models are manufactured in Brazil and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. We have examined the DAC's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States. Therefore, we are issuing this AD to prevent the flightcrew from performing a takeoff with a partially deployed thrust reverser, which could result in reduced controllability of the airplane.

This AD requires revising the Limitations section of the airplane flight manual to prohibit the flightcrew from moving the throttle into the forward thrust range immediately after applying the thrust reverser.

Interim Action

We consider this AD interim action. If final action is later identified, we may consider further rulemaking then.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD; therefore, providing notice and opportunity for public comment before the AD is issued is impracticable, and good cause exists to make this AD effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed in the **ADDRESSES** section. Include ''Docket No. FAA–2006–24897; Directorate Identifier 2006–NM–111–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD that might suggest a need to modify it.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov*.

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2006–11–15 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–14619. Docket No. FAA–2006–24897; Directorate Identifier 2006–NM–111–AD.

Effective Date

(a) This AD becomes effective June 14, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all EMBRAER Model ERJ 170–100 LR, –100 STD, –100 SE, and –100 SU airplanes; and all Model ERJ 190–100 STD, –100 LR, and –100 IGW airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from a report that, during landing, the thrust reverser may not re-stow completely if the throttle lever is moved into the forward thrust range immediately after the thrust reverser is applied. We are issuing this AD to prevent the flightcrew from performing a takeoff with a partially deployed thrust reverser, which could result in reduced controllability of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Airplane Flight Manual Revision

(f) Within 7 days after the effective date of this AD, revise the Limitations section of the EMBRAER 170/190 Airplane Flight Manual (AFM) to include the following statement. This may be done by inserting a copy of this AD in the AFM.

''After applying thrust reverser, do not move the throttle back to the forward thrust range, unless the REV icon on the EICAS is shown in amber or green.''

Note 1: When a statement identical to that in paragraph (f) of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(h) Brazilian airworthiness directives 2006–03–02, effective April 21, 2006; and 2006–03–03, effective April 21, 2006, also address the subject of this AD.

Material Incorporated by Reference

(i) None.

Issued in Renton, Washington, on May 22, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–4909 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–23927; Airspace Docket No. 06-AAL–11]

Revision of Class E Airspace; Big Lake, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Big Lake, AK to provide adequate controlled airspace to contain aircraft executing two new Standard Instrument Approach Procedures (SIAPs) along with one amended SIAP. This rule results in revised Class E airspace established upward from 700 feet (ft.) above the surface at Big Lake, AK.

DATES: *Effective Date:* 0901 UTC, August 3, 2006.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov*. Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Friday, March 3, 2006, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace upward from 700 ft. above the surface at Big Lake, AK (71 FR 10924). The action was proposed in order to create Class E airspace sufficient in size to contain aircraft while executing two new SIAPs and one amended SIAP for the Big Lake Airport. The new approaches are (1) Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 07, Original and (2) RNAV (GPS) RWY 25, Original. The amended approach is the Very High Frequency Omni-directional Range (VOR) RWY 07, Amendment 6. The runway designation is also changing from 08/24 to 07/25 due to magnetic variation changes. Class E controlled airspace extending upward from 700 ft. above the surface in the Big Lake Airport area is revised by this action. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received; thus the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and effective September 15, 2005, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises Class E airspace at the Big Lake Airport, Alaska. This Class E airspace is revised to accommodate aircraft executing two new SIAPs and one amended SIAP, and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for Instrument Flight Rule (IFR) operations at Big Lake Airport, Big Lake Alaska.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in title 49 of the United States Code. subtitle 1, section 106 describes the authority of the FAA Administrator. subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Big Lake Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and effective September 15, 2005, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Big Lake, AK [Revised]

Big Lake Airport, AK

(lat. 61°32′10″ N., long. 149°48′50″ W.)

Big Lake VORTAC

(lat. 61°34′10″ N., long. 149°58′02″ W.)

That airspace extending upward from 700 feet above the surface within a 6.2-mile

radius of the Big Lake Airport, and within 4 miles north and 8 miles south of the 295° radial of the Big Lake VORTAC extending to 16 miles west of the VORTAC.

* * * * *

Issued in Anchorage, AK, on May 19, 2006.

Anthony M. Wylie,

Area Director, Flight Service Information Office (AK).

[FR Doc. E6–8283 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–23710; Airspace Docket No. 06–AAL–03]

Revision of Class E Airspace; Atqasuk, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Atqasuk, AK to provide adequate controlled airspace to contain aircraft executing four amended Standard Instrument Approach Procedures (SIAPs). This rule results in revised Class E airspace established upward from 700 feet (ft.) and 1,200 ft. above the surface at Atqasuk Edward Burnell Sr. Memorial Airport, AK.

DATES: *Effective Date:* 0901 UTC, August 3, 2006.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Monday, March 13, 2006, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace upward from 700 ft. and 1,200 ft. above the surface at Atqasuk, AK (71 FR 12647). The action was proposed in order to create Class E airspace sufficient in size to contain aircraft while executing four amended SIAPs for the Atqasuk Airport. The amended approaches are (1) Non Directional Beacon (NDB) Runway (RWY) 06, Amendment (Amdt) 1; (2) NDB RWY 24, Amdt 1; (3) Area Navigation (Global Positioning System) (RNAV (GPS)) RWY 06, Amdt 1; and (4) RNAV (GPS) RWY 24, Amdt 1. Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface in the Atqasuk area is revised by this action. For clarification, the 700 ft. airspace remains unchanged and the 1,200 ft. airspace is new, due to a Terminal Arrival Area being inserted into the RNAV approaches. For the purposes of this rule, the action is defined as an airspace revision. Further, the title of the rule is to be taken from the town or community's name ''Atqasuk''. However, the airport's name is Atqasuk Edward Burnell Sr. Memorial. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received; thus the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and effective September 15, 2005, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises Class E airspace at the Atqasuk Edward Burnell Sr. Memorial Airport, Alaska. This Class E airspace is revised to accommodate aircraft executing four revised SIAPs, and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for Instrument Flight Rule (IFR) operations at Atqasuk Edward Burnell Sr. Memorial Airport, Alaska.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Atqasuk Edward Burnell Sr. Memorial Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and effective September 15, 2005, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Atqasuk, AK [Revised]

Atqasuk Edward Burnell Sr. Memorial Airport, AK
(Lat. 70°28′02″ N., long. 157°26′09″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Atqasuk Edward Burnell Sr. Memorial

Airport, and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Atqasuk Edward Burnell Sr. Memorial Airport.

* * * * *

Issued in Anchorage, AK, on May 19, 2006.

Anthony M. Wylie,

Area Director, Flight Service Information Office (AK).

[FR Doc. E6–8284 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–23424; Airspace Docket No. 05–AEA–23]

RIN 2120–AA66

Establishment of VOR Federal Airway V–623; NJ and NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes VOR Federal Airway V–623 between the Sparta, NJ, Very High Frequency Omnidirectional Range Tactical Air Navigation (VORTAC) and the Carmel, NY, Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME). The FAA is taking this action to enhance the management of aircraft transiting from the New England area to airports in the Newark, NJ, area.

DATES: *Effective Date:* 0901 UTC, August 3, 2006.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On January 9, 2006, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish VOR Federal Airway V–623 (71 FR 1398). Interested parties were invited to participate in this rulemaking effort by submitting written comments on this proposal to the FAA. Two comments were received in response to the proposal. With the exception of editorial changes, this amendment is the same as that proposed in the notice.

Discussion of Comments

One commenter wrote in support of the proposal. A second commenter opposed the new airway based on environmental concerns. The FAA does not agree with the second commenter. The FAA conducted an environmental review of the proposed airway and prepared a Preliminary Environmental Review Checklist (PERC) to determine if any extraordinary circumstances exist that would trigger further environmental review. Establishing V–623 would result in the publication of existing ATC procedures that do not essentially change existing tracks, create new tracks, or change the concentration of aircraft on these tracks. The FAA determined that implementation of airway V–623 would not trigger any circumstances requiring further environmental review. By establishing V–623, the FAA is publishing routing that is already being assigned by air traffic control (ATC) to some aircraft landing at the Newark, Teterboro, and Morristown, NJ, airports. Because this routing is not published, controllers must read the routing to each pilot in flight resulting in increased frequency congestion and controller workload and decreased ATC system efficiency. The establishment of V–623 will permit pilots to be issued this routing when they receive their initial clearances on the ground, eliminating the need to copy route amendments while airborne. This will significantly reduce frequency congestion and controller workload and enhance ATC system efficiency.

VOR Federal Airways are published in paragraph 6010 of FAA Order 7400.9N dated September 1, 2005 and effective September 15, 2005, which is incorporated by reference in 14 CFR 71.1. The VOR Federal Airway listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing V–623 in the vicinity of Newark, NJ, between the Sparta, NJ, VORTAC, and the Carmel, NY, VOR/DME. The FAA is taking this action to enhance the management of aircraft transiting from the New England area to airports in the Newark, NJ, area. In the NPRM, the description of V–623 included the Sparta VORTAC 047°(T) radial. Subsequently, the flight inspection of the route determined that the Sparta 049°(T) radial is more accurate. Therefore, in this rule, the route description is amended to reflect the Sparta 049°(T) radial. The radials in this rule are stated in degrees relative to True North.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA conducted an environmental review of this action and determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with Paragraph 311k of FAA Order 1050.1E, Environmental Impacts: Policies and Procedures.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 15, 2005, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–623 [New]

From Sparta, NJ; INT Sparta 049° and Carmel, NY, 263° radials; to Carmel.

* * * * *

Issued in Washington, DC on May 19, 2006.

Edith V. Parish,

Manager, Airspace and Rules.

[FR Doc. E6–8280 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30497; Amdt. No. 3169]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective May 30, 2006. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 30, 2006.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Ave, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription——Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK, 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK, 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) amends Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in the appropriate FAA Form 8260, as modified by the the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), which is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Code of Federal Regulations. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on May 19, 2006.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	Subject
05/04/06	ID	Arco	Arco-Butte County	6/6871	RNAV (GPS)–A, Orig.
05/04/06	ID	Arco	Arco-Butte County	6/6872	NDB–A, Orig–A.
05/04/06	IA	Sioux City	Sioux Gateway/Col Bud Day Field	6/6890	ILS Rwy 13 Amdt 1D. This notam replaces FDC 6/5729 published in TL06–11.
05/05/06	NH	Concord	Concord MUNI	6/6891	RNAV (GPS) Rwy 35, Orig.
05/05/06	CT	Groton (New London).	Groton-New London	6/6892	RNAV (GPS) Rwy 5, Orig.
05/05/06	MA	Worcester	Worcester Regional	6/6905	RNAV (GPS) Rwy 11, Orig .
05/05/06	MA	Worcester	Worcester Regional	6/6906	RNAV (GPS) Rwy 29, Orig.
05/05/06	MA	Worcester	Worcester Regional	6/6910	VOR/DME Rwy 33, Orig–C.
05/05/06	MA	Worcester	Worcester Regional	6/6917	GPS Rwy 33, Amdt 1A.
05/05/06	AR	Walnut Ridge	Walnut Ridge Regional	6/6991	RNAV (GPS) Rwy 22, Orig.
05/05/06	AR	North Little Rock	North Little Rock Muni	6/6992	RNAV (GPS) Rwy 5, Orig.
05/05/06	AR	Little Rock	Adams Field	6/7005	ILS Rwy 4L, Amdt 25A.
05/05/06	AZ	Flagstaff	Flagstaff Pulliam	6/7008	ILS/DME Rwy 21, Orig–C.
05/05/06	ME	Augusta	Augusta State	6/7012	ILS Rwy 17, Amdt 2C.
05/05/06	AR	Little Rock	Adams Field	6/7021	Vor A, Orig.
05/05/06	AR	Little Rock	Adams Field	6/7023	RNAV (GPS) Rwy 22R, Orig–A.
05/05/06	CO	Durango	Durango-La Plata County	6/7044	ILS OR LOC/DME Rwy 2, Amdt 3.
05/05/06	CO	Durango	Durango-La Plata County	6/7046	VOR/DME Rwy 2, Amdt 4A.
05/05/06	FL	Fort Lauderdale	Fort Lauderdale-Hollywood Intl	6/7217	RNAV (GPS) Rwy 9R, Amdt 1.
05/05/06	FL	Jacksonville	Cecil Field	6/7010	ILS Rwy 36R, Orig.
05/05/06	WY	Rock Springs	Rock Springs-Sweetwater County	6/7057	ILS or LOC/DME Rwy 27, Orig.
05/06/06	OK	Clinton	Clinton-Sherman	6/7064	GPS Rwy 17R, Orig–A.
05/06/06	OK	Okmulgee	Okmulgee Regional	6/7065	ILS or LOC Rwy 17, Amdt 1.
05/06/06	OK	Clinton	Clinton-Sherman	6/7066	GPS Rwy 35L, Orig.
05/08/06	AK	Wainwright	Wainwright	6/7114	RNAV (GPS) Rwy 5, Orig.
05/08/06	AK	Wainwright	Wainwright	6/7115	RNAV (GPS) Rwy 23, Orig.
05/08/06	AK	Buckland	Buckland	6/7116	NDB/DME Rwy 10, Orig.
05/08/06	AK	Buckland	Buckland	6/7117	NDB/DME Rwy 28, Orig.
05/08/06	IN	Warsaw	Warsaw Muni	6/7132	ILS/DME Rwy 27, Orig–A.
05/08/06	SD	Rapid City	Rapid City Regional	6/7170	VOR or TACAN Rwy 32, Amdt 24D.
05/08/06	SD	Rapid City	Rapid City Regional	6/7171	RNAV (GPS) Rwy 32, Orig–B.
05/08/06	SD	Rapid City	Rapid City Regional	6/7172	VOR or TACAN Rwy 14, Orig–D.
05/08/06	SD	Rapid City	Rapid City Regional	6/7173	ILS Rwy 32, Amdt 17B.
05/09/06	LA	Lake Charles	Lake Charles Regional	6/7193	RNAV (GPS) Rwy 23.
05/09/06	LA	Baton Rouge	Baton Rouge Metro, Ryan Field	6/7194	ILS Rwy 22R, Amdt 9B.
05/09/06	TX	Pleasanton	Pleasanton Muni	6/7236	NDB A, Amdt 5A.
05/09/06	TX	Yoakum	Yoakum Muni	6/7237	RNAV (GPS) Rwy 31, Orig.
05/09/06	TX	Lancaster	Lancaster	6/7238	RNAV (GPS) Rwy 31, Orig.
05/09/06	OH	Lancaster	Fairfield County	6/7239	LOC Rwy 28, Amdt 1A.
05/09/06	TX	Amarillo	Rick Husband Amarillo Intl	6/7240	RNAV (GPS) Rwy 22, Orig.
05/09/06	OH	Medina	Medina Municipal	6/7241	RNAV (GPS) Rwy 9, Orig.
05/09/06	TX	Sinton	San Patricio County	6/7244	VOR Rwy 32, Amdt 8A.
05/09/06	TX	Marshall	Harrison County	6/7245	GPS Rwy 33, Orig–E.
05/09/06	SD	Madison	Madison Muni	6/7246	GPS Rwy 33, Orig–B.
05/09/06	TX	Muskogee	Davis Field	6/7247	RNAV (GPS) Rwy 31, Orig.
05/09/06	OH	Columbus	Ohio State University	6/7248	GPS Rwy 27L, Amdt 1.
05/09/06	OH	Columbus	Ohio State University	6/7250	VOR/DME RNAV Rwy 27L, Amdt 6C.
05/09/06	OH	Columbus	Ohio State University	6/7251	ILS Rwy 9R, Amdt 4A.
05/09/06	IL	Decatur	Decatur	6/7262	ILS Rwy 6, Amdt 13B.
05/09/06	IL	Peoria	Greater Peoria Regional	6/7260	NDB Rwy 31, Amdt 15.
05/11/06	IL	Vandalia	Vandalia Muni	6/7366	VOR Rwy 18, Amdt 11A.
05/11/06	IL	Kankakee	Greater Kankakee	6/7367	ILS Rwy 4, Amdt 6.
05/11/06	TX	Henderson	Rusk County	6/7437	NDB B, Orig–A.
05/11/06	TX	Henderson	Rusk County	6/7440	VOR/DME A, Amdt 3A.

FDC date	State	City	Airport	FDC No.	Subject
05/11/06	OH	Wapakoneta	Neil Armstrong	6/7446	LOC Rwy 26, Amdt 3C.
05/11/06	OH	Athens/Albany	Ohio University Snyder Field	6/7459	NDB Rwy 25, Amdt 9.
05/11/06	OH	Athens/Albany	Ohio University Snyder Field	6/7460	ILS OR LOC Rwy 25, Amdt 1A.
05/11/06	OH	Georgetown	Brown County	6/7461	RNAV (GPS) Rwy 35, Orig.
05/12/06	KS	Hays	Hays Regional	6/7488	GPS Rwy 16, Orig–C.
05/12/06	KS	Hays	Hays Regional	6/7489	RNAV (GPS) Rwy 34, Amdt 1.
05/12/06	KS	Wichita	Beech Factory	6/7490	RNAV (GPS) Rwy 36, Orig.
05/12/06	NE	Fairmont	Fairmont State Airfield	6/7496	NDB Rwy 35 Amdt 2.
05/12/06	NE	Fairmont	Fairmont State Airfield	6/7497	NDB Rwy 17 Amdt 1.
05/12/06	NE	Fairmont	Fairmont State Airfield	6/7498	RNAV (GPS) Rwy 17, Orig.
05/12/06	NE	Imperial	Imperial Muni	6/7514	RNAV (GPS) Rwy 31, Orig.
05/12/06	NE	Imperial	Imperial Muni	6/7516	NDB Rwy 31, Amdt 3.
05/12/06	AK	Manokotak	Manokotak	6/7527	RNAV (GPS)–A, Orig.
05/12/06	AK	Nelson Lagoon	Nelson Lagoon	6/7528	RNAV (GPS) Rwy 26, Orig.
05/12/06	AK	Nelson Lagoon	Nelson Lagoon	6/7529	RNAV (GPS) Rwy 8, Orig.
05/12/06	AK	Ruby	Ruby	6/7530	RNAV (GPS) Rwy 21, Orig.
05/12/06	AK	Ruby	Ruby	6/7531	RNAV (GPS) Rwy 3, Orig.
05/15/06	TX	Llano	Llano Muni	6/7640	GPS Rwy 35, Amdt 1.
05/15/06	ME	Augusta	Augusta State	6/7677	RNAV (GPS)–B, Orig–A.
05/15/06	MD	Frederick	Frederick Muni	6/7678	ILS or LOC Rwy 23, Amdt 5.
05/16/06	MD	Frederick	Frederick Muni	6/7711	VOR–A, Amdt 2.
05/16/06	VA	Petersburg	Dinwiddie County	6/7734	LOC Rwy 5, Amdt 1.
05/16/06	MD	Indian Head	Maryland	6/7710	RNAV (GPS) Rwy 36, Orig–A.
05/16/06	MD	Westminster	Carroll County Regional/Jack B. Boage Field.	6/7708	VOR Rwy 34, Amdt 4.
05/16/06	MD	Westminster	Carroll County Regional/Jack B. Boage FIeld.	6/7709	VOR–A, Amdt 1.
05/17/06	MS	Columbus-Westport-Starkville.	Golden Triangle Regional	6/7782	ILS Rwy 18, Amdt 6B.
05/17/06	MS	Bay St Louis	Stennis Intl	6/7786	ILS Rwy 18, Orig.
05/17/06	MS	Bay St Louis	Stennis Intl	6/7787	GPS Rwy 36, Orig–A.
05/17/06	MS	Bay St Louis	Stennis Intl	6/7788	NDB Rwy 18, Amdt 1.

[FR Doc. E6–8287 Filed 5–26–06; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30496; Amdt. No. 3168]

Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and/or Weather Takeoff Minimums for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective May 30, 2006. The compliance date for each SIAP and/or Weather Takeoff Minimums is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 30, 2006.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

For Purchase—Individual SIAP and Weather Takeoff Minimums copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs and Weather Takeoff Minimums mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to Title 14 of the Code of Federal Regulations, part 97 (14 CFR

part 97), establishes, amends, suspends, or revokes SIAPs and/or Weather Takeoff Minimums. The complete regulatory description of each SIAP and/or Weather Takeoff Minimums is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, 8260–5 and 8260–15A. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs and/or Weather Takeoff Minimums, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs and/or Weather Takeoff Minimums but refer to their depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP and/or Weather Takeoff Minimums contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs and/or Weather Takeoff Minimums. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and/or Weather Takeoff Minimums as contained in the transmittal. Some SIAP and/or Weather Takeoff Minimums amendments may have been previously issued by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP, and/or Weather Takeoff Minimums amendments may require making them effective in less than 30 days. For the remaining SIAPs and/or Weather Takeoff Minimums, an effective date at least 30 days after publication is provided.

Further, the SIAPs and/or Weather Takeoff Minimums contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and/or Weather Takeoff Minimums, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and/or Weather Takeoff Minimums and safety in air commerce, I find that notice and public procedure before adopting these SIAPs and/or Weather Takeoff Minimums are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs and/or Weather Takeoff Minimums effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on May 19, 2006.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, under Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and Weather Takeoff Minimums effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

** * * Effective 06 July 2006*

Atlanta, GA, Hartsfield-Jackson Atlanta Intl, RNAV (GPS) RWY 10, Orig
Atlanta, GA, Hartsfield-Jackson Atlanta Intl, RNAV (GPS) RWY 28, Orig
Raleigh/Durham, NC, Raleigh-Durham Intl, ILS OR LOC RWY 23R, Amdt 10, ILS RWY 23R (CAT II) ILS RWY 23R (CAT III)

** * * Effective 03 August 2006*

Iliamna, AK, Iliamna, RNAV (GPS) RWY 7, Amdt 2
Beckwourth, CA, Nervino, RNAV (GPS) Z RWY 25, Orig
Beckwourth, CA, Nervino, RNAV (GPS) Y RWY 25, Orig–A
Murrieta/Temecula, CA, French Valley, RNAV (GPS) RWY 18, Orig
Murrieta/Temecula, CA, French Valley, GPS RWY 18, Orig–B, CANCELLED
San Diego, CA, Brown Field Muni, RNAV (GPS) RWY 8L, Orig
San Diego, CA, Brown Field Muni, GPS RWY 8L, Orig, CANCELLED
Grand Junction, CO, Walker Field, Takeoff Minimums and Textual DP, Amdt 10
Idaho Falls, ID, Idaho Falls Rgnl, VOR RWY 2, Amdt 6B
Idaho Falls, ID, Idaho Falls Rgnl, RNAV (GPS) RWY 2, Orig
Olathe, KS, Johnson County Executive, RNAV (GPS) RWY 18, Amdt 1
Olathe, KS, Johnson County Executive, RNAV (GPS) RWY 36, Amdt 1
Louisville, KY, Louisville Intl-Standiford Field, RNAV (GPS) RWY 29, Orig
Louisville, KY, Louisville Intl-Standiford Field, GPS RWY 29, Orig–A, CANCELLED
Detroit, MI, Detroit Metropolitan/Wayne County, RNAV (GPS) RWY 27L, Amdt 1A
Olean, NY, Cattaraugus County-Olean, RNAV (GPS) RWY 4, Amdt 1
Olean, NY, Cattaraugus County-Olean, RNAV (GPS) RWY 22, Amdt 1
Burlington/Mount Vernon, WA, Skagit Regional, RNAV (GPS) RWY 10, Orig
Burlington/Mount Vernon, WA, Skagit Regional, GPS RWY 10, Amdt 1A, CANCELLED

[FR Doc. E6–8290 Filed 5–26–06; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 292

[Docket No. RM05–36–001; Order No. 671–A]

Revised Regulations Governing Small Power Production and Cogeneration Facilities

Issued May 22, 2006.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final order; order on rehearing.

SUMMARY: In this order on rehearing, the Federal Energy Regulatory Commission

(Commission) reaffirms its determinations and grants clarification in part of Order No. 671, which amended the Commission's regulations governing small power production and cogeneration facilities.

DATES: *Effective Date:* The final rule and order on rehearing will become effective June 29, 2006.

FOR FURTHER INFORMATION CONTACT:
Paul Singh (Technical Information), Office of Energy Markets and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–8576.
Samuel Higginbottom (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–8561.
Eric D. Winterbauer (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–8329.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Joseph T. Kelliher, Chairman; Nora Mead Brownell, and Suedeen G. Kelly.

1. On February 2, 2006, the Federal Energy Regulatory Commission (Commission) issued Order No. 671,[1] in which the Commission revised its regulations governing qualifying small power production and cogeneration facilities. Specifically, the Commission, among other things, eliminated certain exemptions from rate regulation that were previously available to qualifying facilities (QFs). Several parties have requested rehearing or clarification. For the reasons discussed below, we deny the requests for rehearing and grant clarification in part.

Introduction

2. Order No. 671 was issued in response to the Energy Policy Act of 2005 (EPAct 2005),[2] which modified in relevant part section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Specifically, Order No. 671 sought to: (1) Ensure that new qualifying cogeneration facilities are using their thermal output in a productive and beneficial manner; that the electrical, thermal, chemical and mechanical output of new qualifying cogeneration facilities is used fundamentally for industrial, commercial, residential or institutional purposes; and that there is continuing progress in the development of efficient electric energy generating technology; (2) amend Form 556 [3] to reflect the criteria for new qualifying cogeneration facilities; (3) eliminate ownership limitations for qualifying cogeneration and small power production facilities; and (4) amend the exemptions available to QFs from the requirements of the Federal Power Act (FPA) [4] and the Public Utility Holding Company Act of 1935 (PUHCA 1935).[5] ARIPPA,[6] the National Rural Electric Cooperative Association (NRECA) and the Non-Utility QF Group have requested rehearing.

Exemption of QFs From FPA Section 205/206 Authority

Background

3. In Order No. 671, the Commission stated that in light of significant changes that have occurred in the industry since the first QF facilities were introduced and in light of changing electric markets and resulting market power issues that have arisen in recent years, it was no longer necessary or appropriate to completely exempt QFs from sections 205 and 206 of the FPA.[7] However, the Commission clarified that QFs would continue to have an exemption from sections 205 and 206 of the FPA when a sale is made pursuant to a state regulatory authority's implementation of PURPA. In addition, to avoid creating the hardship that removal of exemptions might cause for smaller QFs, the Commission provided that facilities 20 MW or smaller would remain exempt from sections 205 and 206 of the FPA.

Requests for Rehearing

4. ARIPPA argues against the imposition of rate regulation on QFs that are not owned by electric utilities. It argues that the rule change is a ''bait-and-switch,'' in that it would impose rate regulation on QF owners who had been induced to invest in and develop QFs by the exemption from the state and Federal rate regulation.

5. ARIPPA points to the Commission's statement that ''a complete exemption is not necessary to encourage the development'' of cogeneration.[8] It emphasizes the word ''development,'' noting that this might be a reasonable basis for a rule that newly-built QFs would not enjoy exemptions from rate regulation, but argues that the statement does not address the issue of the Commission's treatment of those who invested in such facilities in the past in reliance on the exemption from rate regulation. It argues that the Commission's statement that QF's had no reasonable expectation that the rules would not be amended is wrong. It argues that that was the inducement for developers to invest.

6. ARIPPA argues that the Commission cites to no record for its assertion that non-QF sales by QFs could potentially have a significant market effect. It argues that the Commission did not cite to a single indication that one or more non-utility QFs under common ownership and control have achieved or could achieve market power. It argues that Commission's assertion is mere speculation.

7. ARIPPA argues that the exception for QFs selling pursuant to a state avoided-cost regime is inconsistent with other parts of the existing rule. It argues that it is vague and that the uncertainty it will create will stymie future development, despite Congress' continuing charge to the Commission to continue to encourage development. It contends that it is unclear how much variance from a state avoided-cost regime is tolerable and how much crosses the line and would cause the QF to lose its exemption from Federal rate regulation. It questions whether investors will be willing to initiate development knowing that the process may be affected by such uncertainties. It also questions whether it is in the public interest for the Commission to set up what is sees as barriers and disincentives to settlement of disputes arising during contract negotiations between utilities and QFs.

8. NRECA, on the other side, argues that all power sales by QFs owned by Commission-regulated public utilities should be subject to sections 205 and 206 even if the sales were made pursuant to a state's implementation of PURPA.[9] It states that Order No. 671 continues to exempt from sections 205 and 206 any sales made pursuant to a state PURPA implementation plan, even

[1] *Revised Regulations Governing Small Power Production and Cogeneration Facilities*, Order No. 671, 71 FR 7852 (February 15, 2006), FERC Stats. & Regs. ¶ 31,203 (2006).

[2] Energy Policy Act of 2005, Public Law No. 109–58, 119 Stat. 594 (2005).

[3] 18 CFR 131.80.

[4] 16 U.S.C. 824 *et seq.*

[5] 15 U.S.C. 79; *See* Public Law No. 109–58, 1261–77, 119 Stat. 594, 972–78 (2005).

[6] ARIPPA, formerly known as the Anthracite Region Independent Power Producers Association, states that it is a not-for-profit association comprising fourteen independent power producers in Pennsylvania that generate approximately 1,346 MW of electrical power buring coal mining refuse.

[7] 16 U.S.C. 824d, 824e.

[8] *Id.* at 6 (citing Order No. 671 at P 96).

[9] NRECA Request for Rehearing at 5.

if the QF is owned by a public utility.[10] It argues that there is no policy reason why such wholesale sales of power from QFs owned by public utilities should be exempt from Commission review under sections 205 and 206, while all other wholesale sales by such public utilities (*i.e.*, from resources other than QFs) are subject to such review.

9. NRECA argues that all sales by QFs owned by public utilities should be subject to the Commission's rate authority, whether such sales are pursuant to an avoided cost rate or not. NRECA also states that the filing of avoided cost contracts with the Commission will enhance oversight and transparency, while not requiring filing creates a risk of market power abuse.

10. NRECA further argues that all QFs that make non-PURPA sales should be subject to sections 205 and 206, no matter how small. It states that it is sensitive to the needs of smaller QFs, but that a QF as small as 5 MW could have a substantial impact upon a small distribution cooperative. NRECA states that small QFs that believe they are too small to handle public utility regulation may continue to make sales pursuant to a state PURPA implementation plan, and continue to be exempt from section 205 and 206 (unless they are owned by a public utility). NRECA adds that, on the other hand, if small QFs want the flexibility available to utilities with market-based rates and feel that they are large enough and sophisticated enough to sell at market-based rates, they should be subject to sections 205 and 206, like any other public utility that sells power at market-based rates.

11. NRECA argues that, under Order No. 671, if a large public utility owned a 20 MW QF, it could make power sales from that QF without any Commission review. It further argues that, if the facility were not a QF, the public utility would not be able to make such a sale without the Commission's express approval. It argues that this underscores the potential for market power abuse and affiliate transaction abuse that could occur if Order No. 671 is not changed.

12. The Non-Utility QF Group argues that the Commission should increase the threshold for exemption from sections 205 and 206 of the FPA from 20 MW to 30 MW. First, it argues that the change would simplify Commission regulation by maintaining a consistent 30 MW threshold for all FPA exemptions as they apply to qualifying small power production facilities. Second, it argues that, in PURPA, Congress determined that 30 MW was a critical threshold for small power production facilities, and notes that Congress did not disturb that threshold in EPAct 2005. Thus, it argues, the Commission already has a ready statutory reference for a 30 MW threshold, while the 20 MW threshold is more arbitrary. Third, it argues that the total installed generation capacity for all qualifying cogeneration plants under 30 MW, combined with the total installed generation capacity of all qualifying small power production facilities under 30 MW, totals a mere 7,095.5 MW.[11] It argues that this represents less than 0.7 percent of the total installed generation capacity in the U.S. in 2004. It argues that, accordingly, exemptions for QFs less than 30 MW would not detract from the purposes of sections 205 and 206 of the FPA, and would serve both administrative efficiency and Congressional mandates to avoid utility-type regulation of entities having *de minimis* market presence.

Commission Determination

13. We disagree that any original ''bargain'' has been reneged on, or that the Commission has engaged in what ARIPPA refers to as a ''bait and switch.'' The Commission granted very broad exemptions from the FPA (and state laws) in order to remove the disincentive of utility-type regulation from QFs. Exemptions from FPA sections 205 and 206 rate regulation were necessary to encourage the development of QFs. However, at that time the Commission had no way to predict how markets would develop in the decades to follow. When the Commission first granted the exemptions from sections 205 and 206 of the FPA in 1980, there was no market for electric energy produced by non-traditional generators and thus such generators were rare. However, prompted originally by PURPA, markets for electric energy produced by non-traditional generators have developed. Now that these markets are in existence and provide a forum for sales of electric energy produced by non-traditional generators, the same level of encouragement for QFs is no longer necessary; access to these markets provides encouragement. Accordingly, it is no longer necessary to completely exempt QFs from sections 205 and 206 of the FPA in order to encourage development of QFs.

14. Moreover, given these changes to energy markets, there will be times when Commission oversight of QF sales is appropriate and necessary under section 205 and 206 of the FPA. The passage and implementation of EPAct 2005 has provided us an opportunity to now provide for such oversight.

15. We remain unpersuaded that eliminating exemptions will upset the legitimate expectations of QF owners, lenders and investors. As we stated in Order No. 671, the exemptions previously granted were always subject to revision and QFs had no justifiable expectations that, no matter the changes in circumstances, changes in the regulatory regime would not occur. In addition, the Commission has already taken significant steps to ease any adverse impact. Specifically, the Commission recognized that expectations reflected in current contracts should be protected, and did so by grandfathering the exemption from sections 205 and 206 of the FPA for existing contracts.[12] However, on a prospective basis, the need for oversight of QF sales is a compelling reason to subject new contracts to rate regulation under section 205 and 206 of the FPA.

16. ARIPPA's argument that Order No. 671's changes to the exemptions from sections 205 and 206 of the FPA will discourage future development of non-traditional generation is misplaced. The large number of non-QF independent generators that have developed in recent years, addressed in the many orders granting them market-based rate authority under section 205 of the FPA, indicate that the exemptions from sections 205 and 206 are not necessary to promote non-traditional generation.

17. We find unpersuasive the arguments made by NRECA that even sales made by utility-owned QFs that are subject to a state's PURPA implementation plan should nevertheless be subject to section 205 and 206 regulation. Our goal in part was and is to close the gap that had developed in the regulatory regime that allowed some QF sales to avoid any rate regulation.[13] We believe that having QF sales regulated at the state level is sufficient, and will allow us to close the regulatory gap while not dramatically or inappropriately increasing the regulatory burden on QFs.

18. Likewise, we find unpersuasive the arguments of the Non-Utility QF Group and NRECA to change the threshold for section 205/206 exemptions. The Non-Utility QF Group argues that the threshold should be increased to 30 MW; NRECA argues that all non-PURPA sales should be regulated no matter how small the QF.

[10] *Id.* (citing Order No. 671 at P 99).

[11] Non-Utility QF Group Request for Rehearing at 4–5 (citing U.S. Department of Energy Annual Electric Generator Report (2004)).

[12] Order No. 671 at P 97.

[13] *Id.* at P 95–96.

In Order No. 671, we attempted to strike a balance by ensuring that QF sales are regulated by either the states or the Commission while at the same time easing the burden on the smallest facilities.[14] In the NOPR, the Commission originally suggested that the exemptions should remain in effect for QFs under 5 MW. Most commenters supported the exemption for QFs under 5 MW, while some suggested a higher figure.[15] In response to those comments, the Commission raised the threshold to 20 MW.[16] The 20 MW threshold strikes a reasonable balance by protecting the smallest facilities while ensuring that sales by larger QFs are subject to Commission oversight.[17] The arguments presented by the Non-Utility QF Group are simply not compelling enough to persuade us to raise the threshold further. In addition, we reject arguments by NRECA to make all non-PURPA sales subject to rate regulation, no matter how small the QF. We believe that an exemption from regulation is still appropriate to ease the regulatory burden for the smallest QFs.

Self-Certification

Background

19. In Opinion No. 671, the Commission retained the option to self-certify for new cogeneration facilities. The Commission also stated that self-certifications and self-recertifications of new cogeneration facilities would now be noticed in the **Federal Register**, in order to enhance the visibility of self-certifications for interested parties. The Commission further stated that a facility should not be able to claim QF status without having made any filing with the Commission. Accordingly, the Commission amended its regulations to expressly require that a facility claiming QF status must file either a notice of self-certification or an application for Commission certification.[18]

Requests for Rehearing

20. NRECA argues that the Commission should not permit new cogeneration facilities to self-certify. It states that the ''fundamental use'' and ''presumptively useful'' standards are subjective and that there are no guidelines established yet on how the standard will be applied. It contends that, although the Commission has stated that these factors will require a case-by-case review, self-certification will be meaningless if the Commission accepts a new cogeneration facility's unsupported representation in a self-certification that it satisfies subjective standards. It argues that, consequently, new cogeneration facilities should at the present time be required to submit an application and obtain a Commission determination as to its QF status.[19]

21. NRECA further argues that the Commission's proposal in Order No. 671 to notice self-certifications and self-recertifications in the **Federal Register** is insufficient to ensure that new cogeneration facilities satisfy the new standards for QF status, given the inherently subjective and case-by-case nature of the application of such new standards. It contends that, because QFs frequently file self-certifications before they have approached an electric utility for interconnection or power sales, electric utilities would be compelled to monitor every self-certification filing in order to determine whether the QF is planning to locate in the electric utility's service territory. It further argues that, until the new standards are better developed, it will be unclear on what basis an electric utility could challenge a QF's qualifying status. It contends that only electric utilities with significant litigation resources will be in position to protect themselves from inappropriate self-certifications, and that small cooperatives will be at a disadvantage.

Commission Determination

22. We deny rehearing. We find the processes and safeguards included in Order No. 671 to be sufficient. As we noted in Order No. 671, the Commission has the authority to review a self-certification.[20] With this authority, the Commission is able to review the self-certifications of new cogeneration facilities to ensure their compliance with the new standards. NRECA argues that, for the first self-certifications, there will be no prior cases that provide guidelines on how to satisfy the standards. We think EPAct 2005's statutory language and the newly-adopted regulations provide a sufficient starting point, and we also expect such case law to develop quickly so that QFs and electric utilities will have further guidance on what is necessary to meet the new standards.

23. In addition, we disagree with NRECA's argument that publication of notice in the **Federal Register** will not help to ensure that prospective QFs comply with the new standards. Publication of such notices will enhance the visibility of self-certifications and self-recertifications for interested parties. We expect that such visibility will allow attempted self-certifications and self-recertifications of new cogeneration facilities that fail to meet the new standards set forth in Order No. 671 to be spotted quickly, and so help to ensure that such facilities satisfy the new standards in Order No. 671.

PUHCA Clarification

Background

24. In Order No. 671, the Commission stated that it interprets PURPA to permit it to exempt QFs from the Public Utility Holding Company Act of 2005 (PUHCA 2005)[21] in 18 CFR 292.602. The Commission stated that, accordingly, revised 18 CFR 292.602 would now provide that a QF shall not be considered an ''electric utility company'' as defined by PUHCA 2005. We also stated in Order No. 671 that, consistent with recent actions on FPA section 203,[22] QFs would be considered ''electric utility companies'' for purposes of section 203(a)(2) of the FPA.[23]

Requests for Rehearing

25. The Non-Utility QF Group argues that there is a tension between Order No. 671 and Order No. 669[24] in how the two orders relate to transactions involving entities that only own QFs and exempt wholesale generators (EWGs) for purposes of section 203(a)(2) of the FPA. It states that, in Order No. 669, the Commission explained that, regardless of their status under PUHCA 2005, QFs (and EWGs) will be regarded as ''electric utility companies'' for purposes of section 203(a)(2), which addresses the acquisition of securities by ''holding companies'' as defined in PUHCA 2005.[25] It notes that the Commission also stated that, while most QFs themselves remain exempt from section 203, holding companies will

[14] *Id.* at P 98.

[15] *Id.* at P 87.

[16] *Id.* at P 98.

[17] The 20 MW threshold adopted in Order No. 671 is also consistent with the 20 MW size limit for small generating facilities found in Order No. 2006. *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, 70 FR 34100 (June 13, 2005), FERC Stats. & Regs. ¶ 31,180 at P 75 (2005), *order on reh'g*, Order No. 2006–A, 70 FR 71760 (November 30, 2005), FERC Stats. & Regs. ¶ 31,196 (2005).

[18] *Id.* at P 78–83.

[19] NRECA Request for Rehearing at 8.

[20] Order No. 671 at P 78.

[21] Public Law No. 109–58, 1261–77, 119 Stat. 594, 972–78 (2005).

[22] 16 U.S.C. 824b.

[23] Order No. 671 at P 102.

[24] *Transactions Subject to FPA Section 203*, Order No. 669, 70 FR 58636 (October 7, 2005), FERC Stats. & Regs. ¶ 31,200 (2005), *order on reh'g*, Order No. 669–A, 71 FR 28,422 (May 16, 2006), FERC Stats. & Regs. ¶ 31,214 (2006).

[25] *See* Non-Utility QF Group Request for Rehearing at 5.

require Commission approval pursuant to section 203 in order to acquire an interest in a QF or an EWG.[26] Finally, it notes that the Commission in Order No. 669 stated that this would hold true even if the holding company were a holding company solely by reason of its ownership interest in QFs, EWGs and foreign utility companies (FUCOs).

26. The Non-Utility QF Group states that, while it understands why the Commission would want some review of acquisitions of large QFs by holding companies having real generation or transmission market power, it disagrees with the Commission's suggestion in Order No. 669 that holding companies otherwise exempted by Congress from PUHCA 2005, *i.e.*, owners only of QFs, EWGs and FUCOs, should be subject to section 203 requirements. It argues that this assertion represents a potential dramatic increase in regulatory oversight over independent companies that own precisely the types of smaller, non-traditional generating plants that Congress has long sought to encourage. It argues that it is ''silly'' to require every 500 KW landfill gas or hydroelectric plant to be subject to section 203 just because it is being acquired by the owner of another small QF.

27. The Non-Utility QF Group argues that a better balance is provided by Order No. 671. It argues that, by exempting QFs from PUHCA 2005's definition of ''electric utility company,'' a QF would not be an ''electric utility company'' under PUHCA 2005, and therefore its upstream 10 percent owners would not be ''holding companies'' under PUHCA 2005—and therefore would not be ''holding companies'' for purposes of section 203(a)(2) of the FPA.[27]

Commission Determination

28. The Non-Utility QF Group is correct that there was an inconsistency in the treatment of QFs with regards to their status under PUHCA 2005. However, the Commission has corrected this inconsistency in its order on rehearing of Order No. 667,[28] the final rule which amended the Commission's regulations to implement the repeal of PUHCA 1935 and the enactment of PUHCA 2005. In that order on rehearing, the Commission clarified that QFs will not be excluded from the definition of ''electric utility company'' but added that the Commission intends nevertheless to exempt QFs from PUHCA 2005 and most FPA requirements pursuant to the Commission's PURPA authority to grant such exemptions.[29] Accordingly, we will on rehearing here revise 18 CFR 292.602 to remove the statement that a QF is not an ''electric utility company'' within the meaning of PUHCA 2005, and to provide an exemption from PUHCA 2005. As to FPA section 203, the definition of ''electric utility company'' in that context was addressed in Order No. 669–A.[30]

The Commission orders:

Rehearing is hereby denied and clarification is hereby granted in part, as discussed in the body of this order.

List of Subjects in 18 CFR Part 292

Electric Power Plants, Electric utilities, Natural gas, Reporting and recordkeeping requirements.

By the Commission.

Magalie R. Salas,

Secretary.

■ In consideration of the foregoing, under the authority of EPAct 2005, the Commission is amending part 292 in Chapter I of Title 18 of the *Code of Federal Regulations,* as set forth below:

PART 292—[AMENDED]

■ 1. The authority citation for part 292 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. In § 292.602, paragraph (b) is revised to read as follows.

§ 292.602 Exemption of qualifying facilities from the Public Utility Holding Company Act of 2005 and certain State law and regulation.

* * * * *

(b) *Exemption from the Public Utility Holding Company Act of 2005.* A qualifying facility described in paragraph (a) of this section or a utility geothermal small power production facility shall be exempt from the Public Utility Holding Company Act of 2005, 42 U.S.C. 16,451–63.

* * * * *

[FR Doc. E6–8204 Filed 5–26–06; 8:45 am]

BILLING CODE 6717–01–P

[26] *Id.* (citing Order No. 669 at P 59–60 and 70).

[27] *Id.* at 6 (citing Order No. 671 at P 92–94).

[28] *Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005,* Order No. 667, 70 FR 75,592 (December 20, 2005), FERC Stats. & Regs. ¶ 31,197 (2005), *order on reh'g,* Order No. 667–A, 71 FR 28,446 (May 16, 2006), FERC Stats. & Regs. ¶ 31,213 (2006).

[29] See Order No. 667 at P 14 n. 31.

[30] Order No. 669–A at P 41–54.

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 5422]

RIN 1400–AC06

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended

AGENCY: State Department.

ACTION: Final rule.

SUMMARY: This rule amends the Department of State's regulations to require the presentation of Mexican Federal passports as a necessary condition for Mexican citizens applying for combined Border Crossing Cards (BCC) and B–1/B–2 visas (laser visas). It also removes the conditions under which certain beneficiaries of Immigration and Nationality Act 212(d)(3)(A) waivers of ineligibility could receive laser visas.

DATES: *Effective Date:* This rule is effective on May 30, 2006.

FOR FURTHER INFORMATION CONTACT: Charles E. Robertson, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106. Phone: 202–663–3969. E-mail: *robertsonce3@state.gov.*

SUPPLEMENTARY INFORMATION:

What Is a Laser Visa?

The biometric border-crossing card (BCC/B–1/B–2 NIV) is a laminated, credit card-style document with many security features. It has a ten-year validity period. The card is commonly called a ''laser visa.'' Most Mexican visitors to the U.S., whether traveling to the border region or beyond, receive a laser visa.

Who Has Authority Over the Issuance of Laser Visas?

The Department of State and the Bureau of Citizenship and Immigration Services (BCIS) in the Department of Homeland Security jointly administer the laser visa program. The Department of State issues the BCC/B–½ as it possesses exclusive authority over visa issuance.

How Was This Authority Derived?

In 1996, Congress established new procedures for issuing a more secure border-crossing document (Section 104 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) Pub. L. 104–208, 110 Stat. 3546). The law required every border crossing identification card issued after April 1, 1998 to contain a biometric identifier such as a fingerprint, and be

machine-readable. The law also mandated that all pre-April 1, 1998 BCCs expire effective October 1, 1999. In recognition of the magnitude of the task of replacing over five million existing cards, Congress subsequently extended the deadline to September 30, 2001.

How Was the Transitional Program Handled?

To deal with the transition to the new border-crossing document, BCIS handled the actual card production and our consular posts in Mexico coordinated the application process. As part of the transitional program, we opened a new consulate in Nogales and expanded our consulate in Nuevo Laredo. We also established U.S. government-owned contractor-operated Temporary Processing Facilities (TPFs) along the border. This transitional period is now over.

From April 1, 1998 through August 21, 2001, the American Embassy in Mexico City and our American Consulates adjudicated over 4.8 million applications, approving slightly more than 4.0 million. Somewhat less than half were for replacement cards; the rest were for first time applicants.

What Is the Basic Requirement for Obtaining a Laser Visa?

Applicants must demonstrate that they qualify for a visitor visa for business or pleasure under INA 101(a)(15)(B). Under INA 214(b), applicants for certain nonimmigrant visitor visas (including classification B–1 and/or B–2) are presumed by law to be applicants for immigrant visas until they satisfy the consular officer that they are qualified for the nonimmigrant visa sought. In order to be approved for a visitor visa, applicants must satisfy the interviewing officer that they are visiting the United States temporarily for business or pleasure for appropriate purposes and activities and that they have a residence in a foreign country that they have no intention of abandoning. For the latter, applicants must demonstrate strong social, economic and/or familial ties to a place outside the United States that will ensure their return.

Prior to This Final Rule What Identity Documents Were Required for Initially Obtaining a Laser Visa?

Section 41.32(a)(iii) has allowed Mexican nationals to present any of the following three identity documents as part of the BCC application process:

(1) A valid Mexican Federal passport, or;

(2) A Certificate of Mexican Nationality (as long as the Certificate of Mexican Nationality was supported by another form of identification which included a photograph), or;

(3) A valid or expired United States visa, BCC, or B1/B2 visa which had been neither been voided by operation of law nor revoked by a consular or immigration officer.

Prior to This Final Rule What Identity Documents Were Required for Obtaining a Replacement Laser Visa?

Applicants with old-style BCCs did not need a passport in order to get a laser visa. In the absence of a Mexican Federal passport they were permitted to present their old BCC card and a recently produced photo identity card. For example, a Mexican voter registration card was often used as the identity document.

Prior to This Final Rule Were Beneficiaries of a 212(d)(3)(A) Waiver Eligible To Receive a Laser Visa?

Prior to this Final Rule applicants who were the beneficiaries of a waiver under INA 212(d)(3)(A), were eligible to receive laser visas. In such circumstances, the waiver was normally valid for multiple applications for admission into the United States and for a period of at least ten years and contained no restrictions as to extensions of temporary stay or itinerary.

How Does the New Rule Affect the Laser Visa Application Process?

Mexican Citizens now must present a Mexican Federal passport as part of their laser visa application and must be eligible for a B–1 or B–2 temporary visitor visa in order to obtain a laser visa.

What Is the Reasoning Behind this Change?

As mentioned above, from April 1, 1998 through August 21, 2001, the American Embassy in Mexico City and our American Consulates adjudicated over 4.8 million applications, approving slightly more than 4.0 million. Somewhat less than half were for replacement cards; the rest were for first time applicants. Because of the massive nature of the program, the fact that historically many applicants for BCCs had presented old BCCs or other Mexican nationality documents that do not fit the definition of a passport, and the perception at the time of a relatively low security risk among Mexican BCC applicants, the standard passport requirement for a visa was eliminated for BCC/B–1/2 processing. See 63 FR 16892.

The BCC replacement program required by IIRIRA is now complete. Additionally, in view of the continued national security concerns relating to foreign document identity, we believe the presentation of a Mexican Federal passport to be in the United States' national interest and, therefore, an appropriate and prudent BCC application requirement which can now be implemented with minimal inconvenience to the applicants. At the same time, there is currently no practical way to properly annotate the laser visa to indicate the conditions of an INA 212(d)(3)(A) waiver. Such applicants can receive a properly annotated B–1/B–2 MRV (visa) in their passport.

Regulatory Findings

Administrative Procedure Act

The Department's implementation of this regulation involves a foreign affairs function of the United States and, therefore, in accordance with 5 U.S.C. 553(a)(1), is not subject to the rule making procedures set forth at 5 U.S.C. 553.

Regulatory Flexibility Act/Executive Order 13272: Small Business

This rule is not subject to the notice-and-comment rulemaking provisions of the Administrative Procedure Act or any other act, and, accordingly it does not require analysis under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) and Executive Order 13272, section 3(b).

The Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law No. 104–121. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

The Unfunded Mandates Reform Act of 1995

This rule is not subject to the notice-and-comment rulemaking provisions of the Administrative Procedure Act or any other act, and, accordingly it does not require analysis under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Moreover, this rule is not

expected to result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. Nor will it significantly or uniquely affect small governments.

Executive Orders 12372 and 13132: Federalism

The Department finds that this regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor does the rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

Executive Order 12866: Regulatory Review

The Department does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in this Executive Order.

Executive Order 12988: Civil Justice Reform

The Department has reviewed the regulations in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

The Paperwork Reduction Act of 1995

This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

List of Subjects in 22 CFR Part 41

Aliens, Foreign officials, Immigration, Nonimmigrants, Passports and visas, Students.

■ For the reasons stated in the preamble, the Department of State amends 22 CFR part 41 as follows:

PART 41—[AMENDED]

■ 1. The authority citation for part 41 shall continue to read as follows:

Authority: 8 U.S.C. 1104; Pub. L. No. 105–277, 112 Stat. 2681–795 through 2681–801. Additional authority is derived from Section 104 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) Pub. L. 104–208, 110 Stat. 3546.

■ 2. In § 41.32, revise paragraphs (a)(1)(iii) and (a)(2)(iii) to read as follows:

§ 41.32 Nonresident alien Mexican border crossing identification cards; combined border crossing identification cards and B–1/B–2 visitor visas.

(a) * * *

(1) * * *

(iii) Is otherwise eligible for a B–1 or a B–2 temporary visitor visa.

(2) * * *

(iii) A valid Mexican Federal passport.

* * * * *

Dated: May 17, 2006.

Maura Harty,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. E6–8288 Filed 5–26–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9264]

RIN 1545–BF26

Guidance Necessary to Facilitate Business Electronic Filing and Burden Reduction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: These regulations affect taxpayers that file Federal income tax returns. They simplify, clarify, or eliminate reporting burdens and also eliminate regulatory impediments to the electronic filing of certain statements that taxpayers are required to include on or with their Federal income tax returns. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on May 30, 2006.

Applicability Date: For dates of applicability, see §§ 1.302–2T(d), 1.302–4T(h), 1.331–1T(f), 1.332–6T(e), 1.338–10T(c), 1.351–3T(f), 1.355–5T(e), 1.368–3T(e), 1.381(b)-1T(e), 1.382–8T(j)(4), 1.382–11T(b), 1.1081–11T(f), 1.1221–2T(j), 1.1502–13T(m), 1.1502–31T(j), 1.1502–32T(j), 1.1502–33T(k), 1.1502–35T(k), 1.1502–76T(d), 1.1502–95T(g), 1.1563–1T(e), 1.1563–3T(e) and 1.6012–2T(k). The applicability of these regulations will expire on May 26, 2009.

FOR FURTHER INFORMATION CONTACT: Grid Glyer, (202) 622–7930 (not a toll-free number).

SUPPLEMENTARY INFORMATON:

Paperwork Reduction Act

These temporary regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–2019. Responses to this collection of information are mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books and records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This Treasury Decision amends Treasury regulations under sections 279, 302, 331, 332, 338, 351, 355, 368, 381, 382, 1081, 1221, 1502, 1563, and 6012 of the Internal Revenue Code (Code) that require taxpayers to include a statement on or with their Federal income tax returns. In some cases, these statements are the method by which taxpayers elect (or elect out of) a particular income tax treatment. In other cases, these statements are the method by which taxpayers report that they undertook a particular type of transaction. In both cases, these regulations often require taxpayers to include detailed amounts of information in these statements, or do

not clearly specify the required information.

In addition, many of these regulations present impediments that prevent corporate taxpayers from submitting these statements as part of an electronically filed Federal income tax return (e-filing). Some of these regulations, for example, impede e-filing by requiring taxpayers to sign a statement and include it on or with the taxpayer's income tax return. Others require a taxpayer to include third-party signatures on such statements or require taxpayers to attach documents, or information supplied by a third party.

Explanation of Provisions

1. Reporting Requirements That Were Simplified, Clarified, or Eliminated

A. Regulations for Which the Reporting Requirements Were Simplified or Clarified

Some regulations require a taxpayer to include a statement on or with its return if it undertakes certain types of transactions. In some cases, these regulations require the taxpayer to submit detailed information about the particular transaction with its return. In other cases, the scope of the reporting requirement was unclear. The IRS and Treasury Department believe that it is not useful to require taxpayers to attach all of this information to their returns. Accordingly, these regulations simplify and clarify the reporting requirements under several provisions.

B. Regulations for Which the Reporting Requirements Were Eliminated

Some regulations require that all shareholders and security holders that receive stock or securities in certain distributions or exchanges file statements providing information about that distribution or exchange. See, *e.g.*, §§ 1.355–5(b) and 1.368–3(b). The IRS and Treasury Department have determined that for most shareholders and security holders these statements are no longer necessary. Accordingly, these temporary regulations only require that a ''significant holder'' file such statement. In the case of stock, a significant holder is a holder of stock of a corporation if at the time of the distribution or exchange such holder owns at least: (1) 5% (by vote or value) of the total outstanding stock of such corporation if the stock owned by such holder is publicly traded, or (2) 1% (by vote or value) of the total outstanding stock of such corporation if the stock owned by such holder is not publicly traded. See, *e.g.*, §§ 1.355–5T(b) and 1.368–3T(b). These regulations use the definition of publicly traded stock found elsewhere in the regulations. See, *e.g.*, §§ 1.1092(d)–1(b), 1.1273–2(f) and 54.4975–7(b)(1)(iv).

In the case of securities, a significant holder is a holder of securities of a corporation if at the time of the distribution or exchange such holder owns securities with a basis of $1,000,000 or more.

2. Regulations That Present Impediments to E-filing

As described in this preamble in paragraphs 2.A. and 2.B., certain regulations impose reporting requirements that are impediments to e-filing. The IRS and Treasury Department are issuing these temporary regulations to eliminate such impediments without altering the substantive requirements of the current regulations.

A. Statements Required To Be Signed by the Taxpayer

Some regulations require a taxpayer to include a statement on or with its return in order to make an election, or notify the IRS that the taxpayer is undertaking a transaction authorized by that provision. In the case of elections, the current regulations often require the taxpayer to sign such statement. In these circumstances, the requirement that the taxpayer sign the statement is an impediment to e-filing and superfluous. By signing the return, a taxpayer is attesting to the validity of the Form 1120 as well as all of the attachments. Accordingly, for these types of statements, the underlying regulations are amended to eliminate the requirement that such statements be signed.

B. Statements Required To Be Signed by Both the Taxpayer and a Third Party

Some regulations require that the taxpayer and another person sign a statement, and that the taxpayer include such jointly signed statement on or with its return. In some cases, the taxpayer is required to provide a copy of this statement, or other information, to the other person and that person is required to include such copy or information on or with its return.

These requirements are impediments to e-filing. However, in such cases, the joint signature requirement cannot simply be eliminated because, in the absence of that requirement, the taxpayer and the other person might take inconsistent positions. Therefore, these regulations amend the provisions with a joint signature requirement to require the taxpayer and the other person to include a statement on or with its return indicating that it has entered into an agreement with the other party addressing the substantive matters covered by the statement required under the current regulations. These agreements will contain the same information as the jointly signed statements required by the current regulations. Each party will be required to retain either the original or a copy of this agreement as part of its records. See § 1.6001–1(e).

C. Section 1561

Section 1561(a) provides that the component members of a controlled group of corporations are limited to using the amounts of the tax benefit items described therein in the same manner as if they were one corporation. Section 1561(a) generally provides that such amounts shall be divided equally among such members. However, section 1561(a) also provides that if such members adopt an apportionment plan, they are then permitted to allocate such amounts among themselves unequally. Section 1.1561–3(b) provides the mechanism by which such members may consent to an apportionment plan.

Section 1.1561–3(b) presents impediments to e-filing. However, the IRS and Treasury Department have determined that these impediments cannot be eliminated without also addressing certain substantive issues present in these regulations. Addressing these issues is beyond the scope of this project. Therefore, these issues will be addressed in separate guidance that the IRS and Treasury Department expect to publish later this year.

3. Requirement That Taxpayers Provide the Fair Market Value and Basis of Assets or Stock

Certain of these regulations require taxpayers to provide in their reporting statement the fair market value and basis of assets or stock distributed or exchanged in a transaction. The IRS and Treasury Department recognize that, in some cases, a taxpayer may not conveniently be able to provide a precise valuation of property exchanged or distributed in a transaction that is not taxable in the current year. In those cases, for the purposes of these statements, the IRS and Treasury Department will accept a taxpayer's good faith estimate of such fair market value.

Similarly, the IRS and Treasury Department recognize that there are occasionally situations where a taxpayer may not be able to precisely determine its basis in a taxable year in which that basis would not be relevant to determining the taxpayer's taxable income. As in the case of fair market value, for purposes of these statements,

the IRS and Treasury Department will in these situations accept a taxpayer's good faith estimate of such basis.

4. Election To Restore Value Under § 1.382–8

In the case of a controlled group of corporations, § 1.382–8 provides that, for purposes of determining the section 382 limitation, the value of the stock of each component member of the controlled group of which the loss corporation is a component member on the change date must be reduced by the value of the stock of any other component member that such component member directly owns immediately after an ownership change. However, the component member's value may be increased by the amount of value that such other component member elects to restore.

The IRS and Treasury Department are aware that taxpayers generally elect to restore value from component members that are foreign corporations. The IRS and Treasury Department are also aware that taxpayers occasionally fail to make the election timely and must file a request for relief under § 301.9100–1. Therefore, to reduce unnecessary elections and section 9100 requests, § 1.382–8T(h)(2) will deem foreign component members to elect to restore full value to other component members under § 1.382–8. Nevertheless, should such members not wish to restore the full amount of such value, they may elect not to restore all or part of such value. Further, a foreign component member that has items treated as connected with the conduct of a trade or business in the United States that it takes into account in determining its value under section 382(e)(3) is not subject to this deemed election.

The IRS and Treasury Department request comments regarding the scope and application of this deemed election to restore value.

5. Recordkeeping Requirement

The IRS and Treasury Department emphasize that although the amount of information that a taxpayer is required to include on or with its return has, in most cases, decreased, the taxpayer's recordkeeping requirement remains unchanged. Certain of these regulations illustrate the type of information taxpayers are recommended to keep in order to substantiate their reporting position.

6. Rev. Proc. 2006–21

Contemporaneously with the issuance of these temporary regulations, the IRS and Treasury Department are releasing Rev. Proc. 2006–21 to remove e-filing impediments and reduce reporting requirements currently found in Rev. Proc. 89–56, 1989–2 C.B. 643, Rev. Proc. 90–39, 1990–2 C.B. 365, and Rev. Proc. 2002–32, 2002–1 C.B. 959. Each revenue procedure provides a method for consolidated taxpayers to request a specified consent or waiver from the Commissioner without submitting a request for a private letter ruling. In particular, Rev. Proc. 89–56 permits taxpayers to request a consent to use a 52–53 week tax year, Rev. Proc. 90–39 permits taxpayers to request a consent to change the method for allocating tax liability to members for earnings and profits purposes, and Rev. Proc. 2002–32 permits taxpayers to request a waiver of the 60-month limitation on reconsolidation.

7. Section 1.1502–35

These regulations also include a revision to § 1.1502–35 that is not related to electronic filing or reporting requirements. The revision corrects an error in the determination of the time period during which suspended losses are reduced under that section. Specifically, these regulations provide that this time period ends on the day before the first date on which the subsidiary (and any successor) is not a member of the group.

Special Analysis

It has been determined that this Treasury Decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Grid Glyer, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.338–10T also issued under 26 U.S.C. 338.* * *

Section 1.1221–2T also issued under 26 U.S.C. 1502.* * *

Section 1.1502–13T also issued under 26 U.S.C. 1502.* * *

Section 1.1502–31T also issued under 26 U.S.C. 1502.* * *

Section 1.1502–32T also issued under 26 U.S.C. 1502.* * *

Section 1.1502–33T also issued under 26 U.S.C. 1502.* * *

Section 1.1502–35T also issued under 26 U.S.C. 1502.* * *

Section 1.1502–76T also issued under 26 U.S.C. 1502.* * *

Section 1.1502–95T also issued under 26 U.S.C. 1502.* * *

■ **Par. 2.** Section 1.279–5 is amended by removing paragraph (h).

■ **Par. 3.** Section 1.302–2 is amended by:

■ 1. Redesignating paragraph (b) as paragraph (b)(1).

■ 2. Revising newly designated paragraph (b)(1).

■ 3. Adding paragraphs (b)(2) and (d).

The additions and revisions read as follows:

§ 1.302–2 Redemptions not taxable as dividends.

* * * * *

(b)(1) The question whether a distribution in redemption of stock of a shareholder is not essentially equivalent to a dividend under section 302(b)(1) depends upon the facts and circumstances of each case. One of the facts to be considered in making this determination is the constructive stock ownership of such shareholder under section 318(a). All distributions in pro rata redemptions of a part of the stock of a corporation generally will be treated as distributions under section 301 if the corporation has only one class of stock outstanding. However, for distributions in partial liquidation, see section 302(e). The redemption of all of one class of stock (except section 306 stock) either at one time or in a series of redemptions generally will be considered as a distribution under section 301 if all

classes of stock outstanding at the time of the redemption are held in the same proportion. Distributions in redemption of stock may be treated as distributions under section 301 regardless of the provisions of the stock certificate and regardless of whether all stock being redeemed was acquired by the stockholders from whom the stock was redeemed by purchase or otherwise.

(2) [Reserved]. For further guidance, see § 1.302–2T(b)(2).

* * * * *

(d) [Reserved]. For further guidance, see § 1.302–2T(d)(1).

■ **Par. 4.** Section 1.302–2T is added to read as follows:

§ 1.302–2T Redemptions not taxable as dividends (temporary).

(a) through (b)(1) [Reserved]. For further guidance, see § 1.302–2(a) through (b)(1).

(2) Unless paragraph (d) of § 1.331–1T applies, every significant holder that transfers stock to the issuing corporation in exchange for property from such corporation must include on or with such holder's return for the taxable year of such exchange a statement entitled, ''STATEMENT PURSUANT TO § 1.302–2T(b)(2) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A SIGNIFICANT HOLDER OF THE STOCK OF [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF ISSUING CORPORATION].'' If a significant holder is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(i) The fair market value and basis of the stock transferred by the significant holder to the issuing corporation; and

(ii) A description of the property received by the significant holder from the issuing corporation.

(3) *Definitions.* For purposes of this section:

(i) *Significant holder* means any person that, immediately before the exchange—

(A) Owned at least five percent (by vote or value) of the total outstanding stock of the issuing corporation if the stock owned by such person is publicly traded; or

(B) Owned at least one percent (by vote or value) of the total outstanding stock of the issuing corporation if the stock owned by such person is not publicly traded.

(ii) *Publicly traded stock* means stock that is listed on—

(A) A national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(B) An interdealer quotation system sponsored by a national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3).

(iii) *Issuing corporation* means the corporation that issued the shares of stock, some or all of which were transferred by a significant holder to such corporation in the exchange described in paragraph (b)(2) of this section.

(4) *Cross reference.* See section 6043 of the Code for requirements relating to a return by a liquidating corporation.

(c) [Reserved]. For further guidance, see § 1.302–2(c).

(d) *Effective date*—(1) *Applicability date.* This section applies to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

■ **Par. 5.** Section 1.302–4 is amended by revising paragraph (a) and adding paragraph (h) to read as follows:

§ 1.302–4 Termination of shareholder's interest.

(a) [Reserved]. For further guidance, see § 1.302–4T(a).

* * * * *

(h) [Reserved]. For further guidance, see § 1.302–4T(h)(1).

■ **Par. 6.** Section 1.302–4T is added to read as follows:

§ 1.302–4T Termination of shareholder's interest (temporary).

(a) The agreement specified in section 302(c)(2)(A)(iii) shall be in the form of a statement entitled, ''STATEMENT PURSUANT TO SECTION 302(c)(2)(A)(iii) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER OR RELATED PERSON, AS THE CASE MAY BE], A DISTRIBUTEE (OR RELATED PERSON) OF [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF DISTRIBUTING CORPORATION].'' The distributee must include such statement on or with the distributee's first return for the taxable year in which the distribution described in section 302(b)(3) occurs. If the distributee is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The distributee must represent in the statement—

(1) THE DISTRIBUTEE (OR RELATED PERSON) HAS NOT ACQUIRED, OTHER THAN BY BEQUEST OR INHERITANCE, ANY INTEREST IN THE CORPORATION (AS DESCRIBED IN SECTION 302(c)(2)(A)(i)) SINCE THE DISTRIBUTION; and

(2) THE DISTRIBUTEE (OR RELATED PERSON) WILL NOTIFY THE INTERNAL REVENUE SERVICE OF ANY ACQUISITION, OTHER THAN BY BEQUEST OR INHERITANCE, OF SUCH AN INTEREST IN THE CORPORATION WITHIN 30 DAYS AFTER THE ACQUISITION, IF THE ACQUISITION OCCURS WITHIN 10 YEARS FROM THE DATE OF THE DISTRIBUTION.

(b) through (g) [Reserved]. For further guidance, see § 1.302–4(b) through (g).

(h) *Effective date*—(1) *Applicability date.* This section applies to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

■ **Par. 7.** Section 1.331–1 is amended by revising paragraph (d) and adding paragraph (f) to read as follows:

§ 1.331–1 Corporate liquidations.

* * * * *

(d) [Reserved]. For further guidance, see § 1.331–1T(d).

* * * * *

(f) [Reserved]. For further guidance, see § 1.331–1T(f)(1).

■ **Par. 8.** Section 1.331–1T is added to read as follows:

§ 1.331–1T Corporate liquidations (temporary).

(a) through (c) [Reserved]. For further guidance, see § 1.331–1(a) through (c).

(d) *Reporting requirement*— (1) *General rule.* Every significant holder that transfers stock to the issuing corporation in exchange for property from such corporation must include on or with such holder's return for the year of such exchange the statement described in paragraph (d)(2) of this section unless—

(i) The property is part of a distribution made pursuant to a corporate resolution reciting that the distribution is made in complete liquidation of the corporation; and

(ii) The issuing corporation is completely liquidated and dissolved within one year after the distribution.

(2) *Statement.* If required by paragraph (d)(1) of this section, a significant holder must include on or with such holder's return a statement entitled, ''STATEMENT PURSUANT TO § 1.331–1T(d) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A SIGNIFICANT HOLDER OF THE STOCK OF [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF ISSUING CORPORATION].'' If a significant holder is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(i) The fair market value and basis of the stock transferred by the significant holder to the issuing corporation; and

(ii) A description of the property received by the significant holder from the issuing corporation.

(3) *Definitions.* For purposes of this section:

(i) *Significant holder* means any person that, immediately before the exchange—

(A) Owned at least five percent (by vote or value) of the total outstanding stock of the issuing corporation if the stock owned by such person is publicly traded; or

(B) Owned at least one percent (by vote or value) of the total outstanding stock of the issuing corporation if the stock owned by such person is not publicly traded.

(ii) *Publicly traded stock* means stock that is listed on—

(A) A national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(B) An interdealer quotation system sponsored by a national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3).

(iii) *Issuing corporation* means the corporation that issued the shares of stock, some or all of which were transferred by a significant holder to such corporation in the exchange described in paragraph (d)(1) of this section.

(4) *Cross reference.* See section 6043 of the Code for requirements relating to a return by a liquidating corporation.

(e) [Reserved]. For further guidance, see § 1.331–1(e).

(f) *Effective date*—(1) *Applicability date.* This section applies to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

§ 1.332–6 [Removed]

■ **Par. 9.** Section 1.332–6 is removed.

■ **Par. 10.** Section 1.332–6T is added to read as follows:

§ 1.332–6T Records to be kept and information to be filed with return (temporary).

(a) *Statement filed by recipient corporation.* If any recipient corporation received a liquidating distribution from the liquidating corporation pursuant to a plan (whether or not that recipient corporation has received or will receive other such distributions from the liquidating corporation in other tax years as part of the same plan) during the current tax year, such recipient corporation must include a statement entitled, ''STATEMENT PURSUANT TO SECTION 332 BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A CORPORATION RECEIVING A LIQUIDATING DISTRIBUTION,'' on or with its return for such year. If any recipient corporation is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The name and employer identification number (if any) of the liquidating corporation;

(2) The date(s) of all distribution(s) (whether or not pursuant to the plan) by the liquidating corporation during the current tax year;

(3) The aggregate fair market value and basis, determined immediately before the liquidation, of all of the assets of the liquidating corporation that have been or will be transferred to any recipient corporation;

(4) The date and control number of any private letter ruling(s) issued by the Internal Revenue Service in connection with the liquidation;

(5) The following representation: THE PLAN OF COMPLETE LIQUIDATION WAS ADOPTED ON [INSERT DATE (mm/dd/yyyy)]; and

(6) A representation by such recipient corporation either that—

(i) THE LIQUIDATION WAS COMPLETED ON [INSERT DATE (mm/dd/yyyy)]; or

(ii) THE LIQUIDATION IS NOT COMPLETE AND THE TAXPAYER HAS TIMELY FILED [INSERT EITHER FORM 952, ''Consent To Extend the Time to Assess Tax Under Section 332(b),'' OR NUMBER AND NAME OF THE SUCCESSOR FORM].

(b) *Filings by the liquidating corporation.* The liquidating corporation must timely file Form 966, ''Corporate Dissolution or Liquidation,'' (or its successor form) and its final Federal corporate income tax return. See also section 6043 of the Code.

(c) *Definitions.* For purposes of this section:

(1) *Plan* means the plan of complete liquidation within the meaning of section 332.

(2) *Recipient corporation* means the corporation described in section 332(b)(1).

(3) *Liquidating corporation* means the corporation that makes a distribution of property to a recipient corporation pursuant to the plan.

(4) *Liquidating distribution* means a distribution of property made by the liquidating corporation to a recipient corporation pursuant to the plan.

(d) *Substantiation information.* Under § 1.6001–1(e), taxpayers are required to retain their permanent records and make such records available to any authorized Internal Revenue Service officers and employees. In connection with a liquidation described in this section, these records should specifically include information regarding the amount, basis, and fair market value of all distributed property, and relevant facts regarding any liabilities assumed or extinguished as part of such liquidation.

(e) *Effective date*— (1) *Applicability date.* This section applies to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

■ **Par. 11.** Section 1.338–0 is amended by revising the entry for § 1.338–10(a)(4)(iii) and adding entries for § 1.338–10(c) and § 1.338–10T to read as follows:

§ 1.338–0 Outline of topics.

* * * * *

§ 1.338–10 Filing of returns.

(a) * * *

(4) * * *

(iii) [Reserved]

* * * * *

(c) [Reserved]

§ 1.338–10T Filing of returns (temporary).

(a)(1) through (a)(4)(ii) [Reserved]

(iii) Procedure for filing a combined return.

(a)(4)(iv) through (b) [Reserved]

(c) Effective date.

(1) Applicability date.

(2) Expiration date.

* * * * *

■ **Par. 12.** Section 1.338–10 is amended by revising paragraph (a)(4)(iii) and adding paragraph (c) to read as follows:

§ 1.338–10 Filing of returns.

(a) * * *

(4) * * *

(iii) [Reserved]. For further guidance, see § 1.338–10T(a)(4)(iii).

* * * * *

(c) [Reserved]. For further guidance, see § 1.338–10T(c)(1).

■ **Par. 13.** Section 1.338–10T is added to read as follows:

§ 1.338–10T Filing of returns (temporary).

(a)(1) through (a)(4)(ii) [Reserved]. For further guidance, see § 1.338–10(a)(1) through (a)(4)(ii).

(iii) *Procedure for filing a combined return.* A combined return is made by filing a single corporation income tax return in lieu of separate deemed sale returns for all targets required to be included in the combined return. The combined return reflects the deemed asset sales of all targets required to be included in the combined return. If the targets included in the combined return constitute a single affiliated group within the meaning of section 1504(a), the income tax return is signed by an officer of the common parent of that group. Otherwise, the return must be signed by an officer of each target included in the combined return. Rules similar to the rules in § 1.1502–75(j) apply for purposes of preparing the combined return. The combined return must include a statement entitled, ''ELECTION TO FILE A COMBINED RETURN UNDER SECTION 338(h)(15).'' The statement must include—

(A) The name, address, and employer identification number of each target required to be included in the combined return; and

(B) The following declaration: EACH TARGET IDENTIFIED IN THIS ELECTION TO FILE A COMBINED RETURN CONSENTS TO THE FILING OF A COMBINED RETURN.

(a)(4)(iv) through (b) [Reserved]. For further guidance, see § 1.338–10(a)(4)(iv) through (b).

(c) *Effective date*—(1) *Applicability date.* This section applies to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

§ 1.351–3 [Removed]

■ **Par. 14.** Section 1.351–3 is removed.

■ **Par. 15.** Section 1.351–3T is added to read as follows:

§ 1.351–3T Records to be kept and information to be filed (temporary).

(a) *Significant transferor.* Every significant transferor must include a statement entitled, ''STATEMENT PURSUANT TO § 1.351–3T(a) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A SIGNIFICANT TRANSFEROR,'' on or with such transferor's income tax return for the taxable year of the section 351 exchange. If a significant transferor is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The name and employer identification number (if any) of the transferee corporation;

(2) The date(s) of the transfer(s) of assets;

(3) The aggregate fair market value and basis, determined immediately before the exchange, of the property transferred by such transferor in the exchange; and

(4) The date and control number of any private letter ruling(s) issued by the Internal Revenue Service in connection with the section 351 exchange.

(b) *Transferee corporation.* Except as provided in paragraph (c) of this section, every transferee corporation must include a statement entitled, ''STATEMENT PURSUANT TO § 1.351–3T(b) BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A TRANSFEREE CORPORATION,'' on or with its income tax return for the taxable year of the exchange. If the transferee corporation is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The name and taxpayer identification number (if any) of every significant transferor;

(2) The date(s) of the transfer(s) of assets;

(3) The aggregate fair market value and basis, determined immediately before the exchange, of all of the property received in the exchange; and

(4) The date and control number of any private letter ruling(s) issued by the Internal Revenue Service in connection with the section 351 exchange.

(c) *Exception for certain transferee corporations.* The transferee corporation is not required to file a statement under paragraph (b) of this section if all of the information that would be included in the statement described in paragraph (b) of this section is included in any statement(s) described in paragraph (a) of this section that is attached to the same return for the same section 351 exchange.

(d) *Definitions.* For purposes of this section:

(1) *Significant transferor* means a person that transferred property to a corporation and received stock of the transferee corporation in an exchange described in section 351 if, immediately after the exchange, such person—

(i) Owned at least five percent (by vote or value) of the total outstanding stock of the transferee corporation if the stock owned by such person is publicly traded, or

(ii) Owned at least one percent (by vote or value) of the total outstanding stock of the transferee corporation if the stock owned by such person is not publicly traded.

(2) *Publicly traded stock* means stock that is listed on—

(i) A national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(ii) An interdealer quotation system sponsored by a national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3).

(e) *Substantiation information.* Under § 1.6001–1(e), taxpayers are required to retain their permanent records and make such records available to any authorized Internal Revenue Service officers and employees. In connection with the exchange described in this section, these records should specifically include information regarding the amount, basis, and fair market value of all transferred property, and relevant facts regarding any liabilities assumed or extinguished as part of such exchange.

(f) *Effective date*—(1) *Applicability date.* This section applies to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

■ **Par. 16.** Section 1.355–0 is amended by removing the entry for § 1.355–5 and adding an entry for § 1.355–5T.

The revision and addition read as follows:

§ 1.355–0 Outline of sections.

* * * * *

§ 1.355–5T Records to be kept and information to be filed (temporary).

* * * * *

§ 1.355–5 [Removed]

■ **Par. 17.** Section 1.355–5 is removed.

■ **Par. 18.** Section 1.355–5T is added to read as follows:

§ 1.355–5T Records to be kept and information to be filed (temporary).

(a) *Distributing corporation*—(1) *In general.* Every corporation that makes a distribution (the distributing corporation) of stock or securities of a controlled corporation, as described in section 355 (or so much of section 356 as relates to section 355), must include a statement entitled, ''STATEMENT PURSUANT TO § 1.355–5T(a) BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A DISTRIBUTING CORPORATION,'' on or with its return for the year of the distribution. If the distributing corporation is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(i) The name and employer identification number (if any) of the controlled corporation;

(ii) The name and taxpayer identification number (if any) of every significant distributee;

(iii) The date of the distribution of the stock or securities of the controlled corporation;

(iv) The aggregate fair market value and basis, determined immediately before the distribution or exchange, of the stock, securities, or other property (including money) distributed by the distributing corporation in the transaction; and

(v) The date and control number of any private letter ruling(s) issued by the Internal Revenue Service in connection with the transaction.

(2) *Special rule when an asset transfer precedes a stock distribution.* If the distributing corporation transferred property to the controlled corporation in a transaction described in section 351 or 368, as part of a plan to then distribute the stock or securities of the controlled corporation in a transaction described in section 355 (or so much of section 356 as relates to section 355), then, unless paragraph (a)(1)(v) of this section applies, the distributing corporation must also include on or with its return for the year of the distribution the statement required by § 1.351–3T(a) or 1.368–3T(a). If the distributing corporation is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include the statement required by § 1.351–3T(a) or 1.368–3T(a) on or with its return.

(b) *Significant distributee.* Every significant distributee must include a statement entitled, ''STATEMENT PURSUANT TO § 1.355–5T(b) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A SIGNIFICANT DISTRIBUTEE,'' on or with such distributee's return for the year in which such distribution is received. If a significant distributee is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The names and employer identification numbers (if any) of the distributing and controlled corporations;

(2) The date of the distribution of the stock or securities of the controlled corporation; and

(3) The aggregate basis, determined immediately before the exchange, of any stock or securities transferred by the significant distributee in the exchange, and the aggregate fair market value, determined immediately before the distribution or exchange, of the stock, securities or other property (including money) received by the significant distributee in the distribution or exchange.

(c) *Definitions.* For purposes of this section:

(1) *Significant distributee* means—

(i) A holder of stock of a distributing corporation that receives, in a transaction described in section 355 (or so much of section 356 as relates to section 355), stock of a corporation controlled by the distributing corporation if, immediately before the distribution or exchange, such holder—

(A) Owned at least five percent (by vote or value) of the total outstanding stock of the distributing corporation if the stock owned by such holder is publicly traded; or

(B) Owned at least one percent (by vote or value) of the stock of the distributing corporation if the stock owned by such holder is not publicly traded; or

(ii) A holder of securities of a distributing corporation that receives, in a transaction described in section 355 (or so much of section 356 as relates to section 355), stock or securities of a corporation controlled by the distributing corporation if, immediately before the distribution or exchange, such holder owned securities in such distributing corporation with a basis of $1,000,000 or more.

(2) *Publicly traded stock* means stock that is listed on—

(i) A national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(ii) An interdealer quotation system sponsored by a national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3).

(d) *Substantiation information.* Under § 1.6001–1(e), taxpayers are required to retain their permanent records and make such records available to any authorized Internal Revenue Service officers and employees. In connection with the distribution or exchange described in this section, these records should specifically include information regarding the amount, basis, and fair market value of all property distributed or exchanged, and relevant facts regarding any liabilities assumed or extinguished as part of such distribution or exchange.

(e) *Effective date*—(1) *Applicability date.* This section applies to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

§ 1.368–3 [Removed]

■ **Par. 19.** Section 1.368–3 is removed.

■ **Par. 20.** Section 1.368–3T is added to read as follows:

§ 1.368–3T Records to be kept and information to be filed with returns (temporary).

(a) *Parties to the reorganization.* The plan of reorganization must be adopted by each of the corporations that are parties thereto. Each such corporation must include a statement entitled, ''STATEMENT PURSUANT TO § 1.368–

3T(a) BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A CORPORATION A PARTY TO A REORGANIZATION,'' on or with its return for the taxable year of the exchange. If any such corporation is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. However, it is not necessary for any taxpayer to include more than one such statement on or with the same return for the same reorganization. The statement must include—

(1) The names and employer identification numbers (if any) of all such parties;

(2) The date of the reorganization;

(3) The aggregate fair market value and basis, determined immediately before the exchange, of the assets, stock or securities of the target corporation transferred in the transaction; and

(4) The date and control number of any private letter ruling(s) issued by the Internal Revenue Service in connection with this reorganization.

(b) *Significant holders.* Every significant holder, other than a corporation a party to the reorganization, must include a statement entitled, ''STATEMENT PURSUANT TO § 1.368–3T(b) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A SIGNIFICANT HOLDER,'' on or with such holder's return for the taxable year of the exchange. If a significant holder is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The names and employer identification numbers (if any) of all of the parties to the reorganization;

(2) The date of the reorganization; and

(3) The fair market value, determined immediately before the exchange, of all the stock or securities of the target corporation held by the significant holder that is transferred in the transaction and such holder's basis, determined immediately before the exchange, in the stock or securities of such target corporation.

(c) *Definitions.* For purposes of this section:

(1) *Significant holder* means—

(i) A holder of stock of the target corporation that receives stock or securities in an exchange described in section 354 (or so much of section 356 as relates to section 354) if, immediately before the exchange, such holder—

(A) Owned at least five percent (by vote or value) of the total outstanding stock of the target corporation if the stock owned by such holder is publicly traded; or

(B) Owned at least one percent (by vote or value) of the total outstanding stock of the target corporation if the stock owned by such holder is not publicly traded; or

(ii) A holder of securities of the target corporation that receives stock or securities in an exchange described in section 354 (or so much of section 356 as relates to section 354) if, immediately before the exchange, such holder owned securities in such target corporation with a basis of $1,000,000 or more.

(2) *Publicly traded stock* means stock that is listed on—

(i) A national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(ii) An interdealer quotation system sponsored by a national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3).

(d) *Substantiation information.* Under § 1.6001–1(e), taxpayers are required to retain their permanent records and make such records available to any authorized Internal Revenue Service officers and employees. In connection with the reorganization described in this section, these records should specifically include information regarding the amount, basis, and fair market value of all transferred property, and relevant facts regarding any liabilities assumed or extinguished as part of such reorganization.

(e) *Effective date*—(1) *Applicability date.* This section applies to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

■ **Par. 21.** Section 1.381(b)–1 is amended by revising paragraph (b)(3) and adding paragraph (e) to read as follows:

§ 1.381(b)–1 Operating rules applicable to carryovers in certain corporate acquisitions.

* * * * *

(b) * * *

(3) [Reserved]. For further guidance, see § 1.381(b)–1T(b)(3).

* * * * *

(e) [Reserved]. For further guidance, see § 1.381(b)–1T(e)(1).

■ **Par. 22.** Section 1.381(b)–1T is added to read as follows:

§ 1.381(b)–1T Operating rules applicable to carryovers in certain corporate acquisitions (temporary).

(a) through (b)(2) [Reserved]. For further guidance, see § 1.381(b)–1(a) through (b)(2).

(3) *Election*— (i) *Content of statements.* The statements referred to in paragraph (b)(2) of § 1.381(b)–1 must be entitled, ''ELECTION OF DATE OF DISTRIBUTION OR TRANSFER PURSUANT TO § 1.381(b)–1(b)(2),'' and must include: [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF DISTRIBUTOR OR TRANSFEROR CORPORATION] AND [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF ACQUIRING CORPORATION] ELECT TO DETERMINE THE DATE OF DISTRIBUTION OR TRANSFER UNDER § 1.381(b)–1(b)(2). SUCH DATE IS [INSERT DATE (mm/dd/yyyy)].

(ii) *Filing of statements.* One statement must be included on or with the timely filed Federal income tax return of the distributor or transferor corporation for its taxable year ending with the date of distribution or transfer. An identical statement must be included on or with the timely filed Federal income tax return of the acquiring corporation for its first taxable year ending after that date. If the distributor or transferor corporation, or the acquiring corporation, is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return.

(b)(4) through (d) [Reserved]. For further guidance, see § 1.381(b)–1(b)(4) through (d).

(e) *Effective date*—(1) *Applicability date.* This section applies to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

■ **Par. 23.** Section 1.382–1 is amended by:

■ 1. Revising the entry for § 1.382–2T(a)(2)(ii).

■ 2. Revising the entry for § 1.382–8(c)(2).

■ 3. Redesignating the entry for § 1.382–8(e)(4) as the entry for § 1.382–8(e)(5).

■ 4. Adding entries for paragraphs (e)(4) and (j)(4) of § 1.382–8.
■ 5. Revising the entry for paragraph (h), and removing the entries for paragraphs (h)(1), (h)(2) and (h)(3), of § 1.382–8.
■ 6. Adding entries for § 1.382–8T.
■ 7. Removing the entry for § 1.382–11.
■ 8. Adding entries for § 1.382–11T.

The additions and revisions read as follows:

§ 1.382–1 Table of contents.

* * * * *

§ 1.382–2T Definition of ownership change under section 382, as amended by the Tax Reform Act of 1986 (temporary).

* * * * *
(a) * * *
(2) * * *
(ii) [Reserved]
* * * * *

§ 1.382–8 Controlled groups.

* * * * *
(c) * * *
(2) [Reserved]
* * * * *
(e) * * *
(4) [Reserved]
(5) Predecessor and successor corporation.
* * * * *
(h) [Reserved]
* * * * *
(j) * * *
(4) [Reserved]

§ 1.382–8T Controlled groups (temporary).

(a) through (c)(1) [Reserved]
(c)(2) Restoration of value.
(c)(3) through (e)(3) [Reserved]
(e)(4) Foreign component member.
(i) In general.
(ii) Exception.
(e)(5) through (g) [Reserved]
(h) Time and manner of filing election to restore.
(1) Statements required.
(i) Filing by loss corporation.
(ii) Filing by electing member.
(iii) Agreement.
(2) Special rule for foreign component members.
(i) Deemed election to restore full value.
(ii) Election not to restore full value.
(iii) Agreement.
(3) Revocation of election.
(i) through (j)(3) [Reserved]
(j)(4) Effective date.
(i) Applicability date.
(ii) Expiration date.
* * * * *

§ 1.382–11T Reporting requirements (temporary).

(a) Information statement required.
(b) Effective date.
(1) Applicability date.
(2) Expiration date.

■ **Par. 24.** Section 1.382–2T is amended by removing and reserving paragraph (a)(2)(ii) to read as follows:

§ 1.382–2T Definition of ownership change under section 382, as amended by the Tax Reform Act of 1986 (temporary).

* * * * *
(a) * * *
(2) * * *
(ii) [Reserved]. For further guidance, see § 1.382–11T(a).
* * * * *

■ **Par. 25.** Section 1.382–8 is amended as follows:
■ 1. Revising paragraphs (c)(2) and (h).
■ 2. Redesignating paragraph (e)(4) as paragraph (e)(5).
■ 3. Adding new paragraphs (e)(4) and (j)(4).

The additions and revisions read as follows:

§ 1.382–8 Controlled groups.

* * * * *
(c) * * *
(2) [Reserved]. For further guidance, see § 1.382–8T(c)(2).
* * * * *
(e) * * *
(4) [Reserved]. For further guidance, see § 1.382–8T(e)(4).
(5) Predecessor and successor corporation. * * *
* * * * *
(h) [Reserved]. For further guidance, see § 1.382–8T(h).
* * * * *
(j) * * *
(4) [Reserved]. For further guidance, see § 1.382–8T(j)(4)(i).

■ **Par. 26.** Section 1.382–8T is added to read as follows:

§ 1.382–8T Controlled groups (temporary).

(a) through (c)(1) [Reserved]. For further guidance, see § 1.382–8(a) through (c)(1).

(2) *Restoration of value.* After the value of the stock of each component member is reduced pursuant to paragraph (c)(1) of § 1.382–8, the value of the stock of each component member is increased by the amount of value, if any, restored to the component member by another component member (the electing member) pursuant to this paragraph (c)(2). The electing member may elect (or may be deemed to elect under paragraph (h)(2)(i) of this section in the case of a foreign component member) to restore value to another component member in an amount that does not exceed the lesser of—

(i) The sum of—

(A) The value, determined immediately before the ownership change, of the electing member's stock (after adjustment under paragraph (c)(1) of § 1.382–8 and before any restoration of value under this paragraph (c)(2)); plus

(B) Any amount of value restored to the electing member by another component member under this paragraph (c)(2); or

(ii) The value, determined immediately before any ownership change, of the electing member's stock (without regard to any adjustment under this section) that is directly owned by the other component member immediately after the ownership change.

(c)(3) through (e)(3) [Reserved]. For further guidance, see § 1.382–8(c)(3) through (e)(3).

(4) *Foreign component member*— (i) *In general.* Except as provided in paragraph (e)(4)(ii) of this section, foreign component member means a component member that is a foreign corporation.

(ii) *Exception.* A foreign component member shall not include a foreign corporation that has items treated as connected with the conduct of a trade or business in the United States that it takes into account in determining its value pursuant to section 382(e)(3).

(e)(5) through (g) [Reserved]. For further guidance, see § 1.382–8(e)(5) through (g).

(h) *Time and manner of filing election to restore*—(1) *Statements required*—(i) *Filing by loss corporation.* The election to restore value described in paragraph (c)(2) of this section must be in the form set forth in this paragraph (h)(1)(i). It must be filed by the loss corporation by including a statement on or with its income tax return for the taxable year in which the ownership change occurs (or with an amended return for that year filed on or before the due date (including extensions) of the income tax return of any component member with respect to the taxable year in which the ownership change occurs). The common parent of a consolidated group must make the election on behalf of the group. The election is made in the form of a statement entitled, ''STATEMENT PURSUANT TO § 1.382–8T(h)(1) TO ELECT TO RESTORE ALL OR PART OF THE VALUE OF [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF THE ELECTING MEMBER] TO [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF THE CORPORATION TO WHICH VALUE IS RESTORED].'' The statement must include the amount of the value being restored and must also indicate that an agreement signed and dated by both

parties, as described in paragraph (h)(1)(iii) of this section, has been entered into. Each such party must retain either the original or a copy of this agreement as part of its records. See § 1.6001–1(e).

(ii) *Filing by electing member.* An electing member must include a statement identical to the one described in paragraph (h)(1)(i) of this section on or with its income tax return (or with an amended return for that year filed on or before the due date (including extensions) of the income tax return of any component member with respect to the taxable year in which the ownership change occurs) (if any) for the taxable year which includes the change date in connection with which the election described in paragraph (c)(2) of this section is made. If the electing member is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. It is not necessary for the electing member (or the United States shareholder, as the case may be) to include this statement on or with its return if the loss corporation includes an identical statement on or with the same return for the same election.

(iii) *Agreement.* Both the electing member and the corporation to which value is restored must sign and date an agreement. The agreement must—

(A) Identify the change date for the loss corporation in connection with which the election is made;

(B) State the value of the electing member's stock (without regard to any adjustment under paragraphs (c)(1), (c)(3), (c)(4) and (c)(5) of § 1.382–8 and paragraph (c)(2) of this section) immediately before the ownership change;

(C) State the amount of any reduction required under paragraph (c)(1) of § 1.382–8 with respect to stock of the electing member that is owned directly or indirectly by the corporation to which value is restored;

(D) State the amount of value that the electing member elects to restore to the corporation; and

(E) State whether the value of either component member's stock was adjusted pursuant to paragraph (c)(4) of § 1.382–8.

(2) *Special rule for foreign component members*—(i) *Deemed election to restore full value.* Unless the election described in paragraph (h)(2)(ii) of this section is made for a foreign component member, each foreign component member of the controlled group is deemed to have elected to restore to each other component member the maximum value allowable under paragraph (c)(2) of this section, taking into account the limitations of § 1.382–8.

(ii) *Election not to restore full value.* (A) A loss corporation may elect to reduce the amount of value restored from a foreign component member (the electing foreign component member) to another component member under paragraph (h)(2)(i) of this section in the form set forth in this paragraph (h)(2)(ii). It must be filed by the loss corporation by including a statement on or with its income tax return for the taxable year in which the ownership change occurs (or with an amended return for that year filed on or before the due date (including extensions) of the income tax return of any component member with respect to the taxable year in which the ownership change occurs). The common parent of a consolidated group must make the election on behalf of the group. The election is made in the form of a statement entitled, ''STATEMENT PURSUANT TO § 1.382–8T(h)(2)(ii) TO ELECT NOT TO RESTORE FULL VALUE OF [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF ELECTING FOREIGN COMPONENT MEMBER] TO [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF THE CORPORATION TO WHICH SUCH VALUE IS NOT TO BE RESTORED].'' The statement must include the amount of the value not being restored and must also indicate that an agreement signed and dated by both parties, as described in paragraph (h)(2)(iii) of this section, has been entered into. Each such party must retain either the original or a copy of the agreement as part of its records. See § 1.6001–1(e).

(B) An electing foreign component member must include a statement identical to the one described in paragraph (h)(2)(ii)(A) of this section on or with its income tax return (or with an amended return for that year filed on or before the due date (including extensions) of the income tax return of any component member with respect to the taxable year in which the ownership change occurs) (if any) for the taxable year which includes the change date in connection with which the election described in paragraph (h)(2)(ii)(A) of this section is made. If the electing foreign component member is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. It is not necessary for the electing foreign component member (or United States shareholder, as the case may be) to include this statement on or with its return if the loss corporation includes an identical statement on or with the same return for the same election.

(iii) *Agreement.* Both the electing foreign component member and the corporation to which full value is not restored must sign and date an agreement. The agreement must—

(A) Identify the change date for the loss corporation in connection with which the election is made;

(B) State the value of the electing foreign component member's stock (without regard to any adjustment under paragraphs (c)(1), (c)(3), (c)(4) and (c)(5) of § 1.382–8 and paragraph (c)(2) of this section) immediately before the ownership change;

(C) State the amount of any reduction required under paragraph (c)(1) of § 1.382–8 with respect to stock of the electing foreign component member that is owned directly or indirectly by the corporation to which value is not restored;

(D) State the amount of value that the electing foreign component member elects not to restore to the corporation; and

(E) State whether the value of either component member's stock was adjusted pursuant to paragraph (c)(4) of § 1.382–8.

(3) *Revocation of election.* An election (other than the deemed election described in paragraph (h)(2)(i) of this section) made under this section is revocable only with the consent of the Commissioner.

(i) through (j)(3) [Reserved]. For further guidance, see § 1.382–8(i) through (j)(3).

(4) *Effective date*—(i) *Applicability date.* This section applies to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

§ 1.382–11 [Removed]

■ **Par. 27.** Section 1.382–11 is removed.

■ **Par. 28.** Section 1.382–11T is added to read as follows:

§ 1.382–11T Reporting requirements (temporary).

(a) *Information statement required.* A loss corporation must include a statement entitled, ''STATEMENT PURSUANT TO § 1.382–11T(a) BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF

TAXPAYER], A LOSS CORPORATION,'' on or with its income tax return for each taxable year that it is a loss corporation in which an owner shift, equity structure shift or other transaction described in paragraph (a)(2)(i) of § 1.382–2T occurs. The statement must include the date(s) of any owner shifts, equity structure shifts, or other transactions described in paragraph (a)(2)(i) of § 1.382–2T, the date(s) on which any ownership change(s) occurred, and the amount of any attributes described in paragraph (a)(1)(i) of § 1.382–2 that caused the corporation to be a loss corporation. A loss corporation may also be required to include certain elections on this statement, including—

(1) An election made under § 1.382–2T(h)(4)(vi)(B) to disregard the deemed exercise of an option if the actual exercise of that option occurred within 120 days of the ownership change; and

(2) An election made under § 1.382–6(b)(2) to close the books of the loss corporation for purposes of allocating income and loss to periods before and after the change date for purposes of section 382.

(b) *Effective date*—(1) *Applicability date.* This section applies to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

§ 1.1081–11 [Removed]

■ **Par. 29.** Section 1.1081–11 is removed.

■ **Par. 30.** Section 1.1081–11T is added to read as follows:

§ 1.1081–11T Records to be kept and information to be filed with returns (temporary).

(a) *Distributions and exchanges; significant holders of stock or securities.* Every significant holder must include a statement entitled, ''STATEMENT PURSUANT TO § 1.1081–11T(a) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A SIGNIFICANT HOLDER,'' on or with such holder's income tax return for the taxable year in which the distribution or exchange occurs. If a significant holder is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The name and employer identification number (if any) of the corporation from which the stock, securities, or other property (including money) was received by such significant holder;

(2) The aggregate basis, determined immediately before the exchange, of any stock or securities transferred by the significant holder in the exchange, and the aggregate fair market value, determined immediately before the distribution or exchange, of the stock, securities or other property (including money) received by the significant holder in the distribution or exchange; and

(3) The date of the distribution or exchange.

(b) *Distributions and exchanges; corporations subject to Commission orders.* Each corporation which is a party to a distribution or exchange made pursuant to an order of the Commission must include on or with its income tax return for its taxable year in which the distribution or exchange takes place a statement entitled, ''STATEMENT PURSUANT TO § 1.1081–11T(b) BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A DISTRIBUTING OR EXCHANGING CORPORATION.'' If the distributing or exchanging corporation is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The date and control number of the Commission order, pursuant to which the distribution or exchange was made;

(2) The names and taxpayer identification numbers (if any) of the significant holders;

(3) The aggregate fair market value and basis, determined immediately before the distribution or exchange, of the stock, securities, or other property (including money) transferred in the distribution or exchange; and

(4) The date of the distribution or exchange.

(c) *Sales by members of system groups.* Each system group member must include a statement entitled, ''STATEMENT PURSUANT TO § 1.1081–11T(c) BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A SYSTEM GROUP MEMBER,'' on or with its income tax return for the taxable year in which the sale is made. If any system group member is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The dates and control numbers of all relevant Commission orders;

(2) The aggregate fair market value and basis, determined immediately before the sale, of all stock or securities sold; and

(3) The date of the sale.

(d) *Definitions.* (1) For purposes of this section, *Commission* means the Securities and Exchange Commission.

(2) For purposes of this section, *significant holder* means a person that receives stock or securities from a corporation (the distributing corporation) pursuant to an order of the Commission, if, immediately before the transaction, such person—

(i) In the case of stock—

(A) Owned at least five percent (by vote or value) of the total outstanding stock of the distributing corporation if the stock owned by such person is publicly traded, or

(B) Owned at least one percent (by vote or value) of the total outstanding stock of the distributing corporation if the stock owned by such person is not publicly traded; or

(ii) In the case of securities, owned securities of the distributing corporation with a basis of $1,000,000 or more.

(3) *Publicly traded stock* means stock that is listed on—

(i) A national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(ii) An interdealer quotation system sponsored by a national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3).

(4) For purposes of paragraph (b) of this section, *exchange* means exchange, expenditure, or investment.

(5) For purposes of paragraph (c) of this section, *system group member* means each corporation which is a member of a system group and which, pursuant to an order of the Commission, sells stock or securities received upon an exchange (pursuant to an order of the Commission) and applies the proceeds derived therefrom in retirement or cancellation of its own stock or securities.

(e) *Substantiation information.* Under § 1.6001–1(e), taxpayers are required to retain their permanent records and make such records available to any authorized Internal Revenue Service officers and employees. In connection with the distribution or exchange described in this section, these records should specifically include information

regarding the amount, basis, and fair market value of all property distributed or exchanged, and relevant facts regarding any liabilities assumed or extinguished as part of such distribution or exchange.

(f) *Effective date*—(1) *Applicability date.* This section applies to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

■ **Par. 31**. Section 1.1221–2 is amended by revising paragraph (e)(2)(iv) and adding paragraphs (i) through (j) to read as follows:

§ 1.1221–2 Hedging transactions.

* * * * *

(e) * * *

(2) * * *

(iv) [Reserved]. For further guidance, see § 1.1221–2T(e)(2)(iv).

* * * * *

(i) through (j) [Reserved]. For further guidance, see § 1.1221–2T(i) through (j)(1).

■ **Par. 32**. Section 1.1221–2T is added to read as follows:

§ 1.1221–2T Hedging transactions (temporary).

(a) through (e)(2)(iii) [Reserved]. For further guidance, see § 1.1221–2(a) through (e)(2)(iii).

(iv) *Making and revoking the election.* Unless the Commissioner otherwise prescribes, the election described in paragraph (e)(2) of § 1.1221–2 must be made in a separate statement that provides, ''[INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF COMMON PARENT] HEREBY ELECTS THE APPLICATION OF § 1.1221–2(e)(2) (THE SEPARATE-ENTITY APPROACH).'' The statement must also indicate the date as of which the election is to be effective. The election must be filed by including the statement on or with the consolidated group's income tax return for the taxable year that includes the first date for which the election is to apply. The election applies to all transactions entered into on or after the date so indicated. The election may only be revoked with the consent of the Commissioner.

(e)(3) through (h) [Reserved]. For further guidance, see § 1.1221–2(e)(3) through (h).

(i) [Reserved]

(j) *Effective date*— (1) *Applicability date.* This section applies to any original consolidated Federal income tax return due (without extensions) after May 30, 2006. However, a consolidated group may apply this section to any original consolidated Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

■ **Par. 33**. Section 1.1502–13 is amended by revising paragraphs (f)(5)(ii)(E) and (f)(6)(i)(C)(*2*) and adding paragraph (m) to read as follows:

§ 1.1502–13 Intercompany transactions.

* * * * *

(f) * * *

(5) * * *

(ii) * * *

(E) [Reserved]. For further guidance, see § 1.1502–13T(f)(5)(ii)(E).

(6) * * *

(i) * * *

(C) * * *

(*2*) [Reserved]. For further guidance, see § 1.1502–13T(f)(6)(i)(C)(*2*)

* * * * *

(m) [Reserved]. For further guidance, see § 1.1502–13T(m)(1).

■ **Par. 34**. Section 1.1502–13T is added to read as follows:

§ 1.1502–13T Intercompany transactions (temporary).

(a) through (f)(5)(ii)(D) [Reserved]. For further guidance, see § 1.1502–13(a) through (f)(5)(ii)(D).

(E) *Election.* An election to apply paragraph (f)(5)(ii) of § 1.1502–13 is made in a separate statement entitled, ''[INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF COMMON PARENT] HEREBY ELECTS THE APPLICATION OF § 1.1502–13(f)(5)(ii) FOR AN INTERCOMPANY TRANSACTION INVOLVING [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF S] AND [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF T].'' A separate election must be made for each such application. The election must be filed by including the statement on or with the consolidated group's income tax return for the year of T's liquidation (or other transaction). The Commissioner may impose reasonable terms and conditions to the application of paragraph (f)(5)(ii) of § 1.1502–13 that are consistent with the purposes of such section. The statement must—

(*1*) Identify S's intercompany transaction and T's liquidation (or other transaction); and

(*2*) Specify which provision of § 1.1502–13(f)(5)(ii) applies and how it alters the otherwise applicable results under this section (including, for example, the amount of S's intercompany items and the amount deferred or offset as a result of § 1.1502–13(f)(5)(ii)).

(f)(6) through (f)(6)(i)(C)(*1*) [Reserved]. For further guidance, see § 1.1502–13(f)(6) through (f)(6)(i)(C)(*1*).

(*2*) *Election.* The election described in paragraph (f)(6)(i)(C)(*1*) of § 1.1502–13 must be made in a separate statement entitled, ''ELECTION TO REDUCE BASIS OF P STOCK UNDER § 1.1502–13(f)(6) HELD BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF MEMBER WHOSE BASIS IN P STOCK IS REDUCED].'' The election must be filed by including the statement on or with the consolidated group's income tax return for the year in which the nonmember becomes a member. The statement must identify the member's basis in the P stock (taking into account the effect of this election) and the number of shares of P stock held by the member.

(f)(6)(ii) through (l) [Reserved]. For further guidance, see § 1.1502–13(f)(6)(ii) through (l).

(m) *Effective date*—(1) *Applicability date.* This section applies to any original consolidated Federal income tax return due (without extensions) after May 30, 2006. However, a consolidated group may apply this section to any original consolidated Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

■ **Par. 35**. Section 1.1502–31 is amended by revising paragraph (e)(2) and adding paragraphs (i) through (j) to read as follows:

§ 1.1502–31 Stock basis after a group structure change.

* * * * *

(e) * * *

(2) [Reserved]. For further guidance, see § 1.1502–31T(e)(2).

* * * * *

(i) through (j) [Reserved]. For further guidance, see § 1.1502–31T(i) through (j)(1).

■ **Par. 36**. Section 1.1502–31T is added to read as follows:

§ 1.1502–31T Stock basis after a group structure change (temporary).

(a) through (e)(1) [Reserved]. For further guidance, see § 1.1502–31(a) through (e)(1).

(2) *Election*. The election described in paragraph (e)(1) of § 1.1502–31 must be made in a separate statement entitled, ''ELECTION TO TREAT LOSS CARRYOVER AS EXPIRING UNDER § 1.1502–31(e).'' The election must be filed by including the statement on or with the consolidated group's income tax return for the year that includes the group structure change. The statement must identify the amount of each loss carryover deemed to expire (or the amount of each loss carryover deemed not to expire, with any balance of any loss carryovers being deemed to expire).

(f) through (h) [Reserved]. For further guidance, see § 1.1502–31(f) through (h).

(i) [Reserved]

(j) *Effective date*—(1) *Applicability date*. This section applies to any original consolidated Federal income tax return due (without extensions) after May 30, 2006. However, a consolidated group may apply this section to any original consolidated Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date*. The applicability of this section will expire on May 26, 2009.

■ **Par. 37**. Section 1.1502–32 is amended by revising paragraph (b)(4)(iv) and adding paragraphs (i) through (j) to read as follows:

§ 1.1502–32 Investment adjustments.

* * * * *

(b) * * *

(4) * * *

(iv) [Reserved]. For further guidance, see § 1.1502–32T(b)(4)(iv).

* * * * *

(i) through (j) [Reserved]. For further guidance, see § 1.1502–32T(i) through (j)(1).

■ **Par. 38**. Section 1.1502–32T is added to read as follows:

§ 1.1502–32T Investment adjustments (temporary).

(a) through (b)(4)(iii) [Reserved]. For further guidance, see § 1.1502–32(a) through (b)(4)(iii).

(iv) *Election*. The election described in paragraph (b)(4) of § 1.1502–32 must be made in a separate statement entitled, ''ELECTION TO TREAT LOSS CARRYOVER OF [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF S] AS EXPIRING UNDER § 1.1502–32(b)(4).'' The election must be filed by including a statement on or with the consolidated group's income tax return for the year S becomes a member. A separate statement must be made for each member whose loss carryover is deemed to expire. The statement must identify the amount of each loss carryover deemed to expire (or the amount of each loss carryover deemed not to expire, with any balance of any loss carryovers being deemed to expire) and the basis of any stock reduced as a result of the deemed expiration.

(b)(4)(v) through (h) [Reserved]. For further guidance, see § 1.1502–32(b)(4)(v) through (h).

(i) [Reserved]

(j) *Effective date*—(1) *Applicability date*. This section applies to any original consolidated Federal income tax return due (without extensions) after May 30, 2006. However, a consolidated group may apply this section to any original consolidated Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date*. The applicability of this section will expire on May 26, 2009.

■ **Par. 39**. Section 1.1502–33 is amended by revising paragraph (d)(5)(i)(D) and adding paragraph (k) to read as follows:

§ 1.1502–33 Earnings and profits.

* * * * *

(d) * * *

(5) * * *

(i) * * *

(D) [Reserved]. For further guidance, see § 1.1502–33T(d)(5)(i)(D).

* * * * *

(k) [Reserved]. For further guidance, see § 1.1502–33T(k)(1).

■ **Par. 40**. Section 1.1502–33T is added to read as follows:

§ 1.1502–33T Earnings and profits (temporary).

(a) through (d)(5)(i)(C) [Reserved]. For further guidance, see § 1.1502–33(a) through (d)(5)(i)(C).

(D) If a method is permitted under paragraph (d)(4) of § 1.1502–33, provide the date and control number of the private letter ruling issued by the Internal Revenue Service approving such method.

(d)(5)(ii) through (j) [Reserved]. For further guidance, see § 1.1502–33(d)(5)(ii) through (j).

(k) *Effective date*—(1) *Applicability date*. This section applies to any original consolidated Federal income tax return due (without extensions) after May 30, 2006. However, a consolidated group may apply this section to any original consolidated Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date*. The applicability of this section will expire on May 26, 2009.

■ **Par. 41**. Section 1.1502–35 is amended by revising paragraph (c)(4)(i) and adding paragraph (k) to read as follows:

§ 1.1502–35 Transfers of subsidiary stock and deconsolidations of subsidiaries.

* * * * *

(c) * * *

(4) * * *

(i) [Reserved]. For further guidance, see § 1.1502–35T(c)(4)(i).

* * * * *

(k) [Reserved]. For further guidance, see § 1.1502–35T(k)(1).

■ **Par. 42**. Section 1.1502–35T is added to read as follows:

§ 1.1502–35T Transfers of subsidiary stock and deconsolidations of subsidiaries (temporary).

(a) through (c)(3) [Reserved]. For further guidance, see § 1.1502–35(a) through (c)(3).

(4) *Reduction of suspended loss*— (i) *General rule*. The amount of any loss suspended pursuant to paragraphs (c)(1) and (c)(2) of § 1.1502–35 shall be reduced, but not below zero, by the subsidiary's (and any successor's) items of deduction and loss, and the subsidiary's (and any successor's) allocable share of items of deduction and loss of all lower-tier subsidiaries, that are allocable to the period beginning on the date of the disposition that gave rise to the suspended loss and ending on the day before the first date on which the subsidiary (and any successor) is not a member of the group of which it was a member immediately prior to the disposition (or any successor group), and that are taken into account in determining consolidated taxable income (or loss) of such group for any taxable year that includes any date on or after the date of the disposition and before the first date on which the subsidiary (and any successor) is not a member of such group; provided, however, that such reduction shall not exceed the excess of the amount of such items over the amount of such items that are taken into account in determining the basis adjustments made under § 1.1502–32 to stock of the subsidiary (or any successor) owned by members of the group. The preceding sentence shall not apply to items of deduction and loss to the extent that the group can establish that all or a portion of such items was not reflected in the computation of the

duplicated loss with respect to the subsidiary on the date of the disposition of stock that gave rise to the suspended loss.

(c)(4)(ii) through (j) [Reserved]. For further guidance, see § 1.1502–35(c)(4)(ii) through (j).

(k) *Effective date*—(1) *Applicability date.* This section applies to any original consolidated Federal income tax return due (without extensions) after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

■ **Par. 43**. Section 1.1502–76 is amended by revising paragraph (b)(2)(ii)(D) and adding paragraph (d) to read as follows:

§ 1.1502–76 Taxable year of members of group.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(D) [Reserved]. For further guidance, see § 1.1502–76T(b)(2)(ii)(D).

* * * * *

(d) [Reserved]. For further guidance, see § 1.1502–76T(d)(1).

■ **Par. 44**. Section 1.1502–76T is added to read as follows:

§ 1.1502–76T Taxable year of members of group (temporary).

(a) through (b)(2)(ii)(C) [Reserved]. For further guidance, see § 1.1502–76(a) through (b)(2)(ii)(C).

(D) *Election*—(1) *Statement.* The election to ratably allocate items under paragraph (b)(2)(ii) of § 1.1502–76 must be made in a separate statement entitled, ''THIS IS AN ELECTION UNDER § 1.1502–76(b)(2)(ii) TO RATABLY ALLOCATE THE YEAR'S ITEMS OF [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF THE MEMBER].'' The election must be filed by including a statement on or with the returns including the items for the years ending and beginning with S's change in status. If two or more members of the same consolidated group, as a consequence of the same plan or arrangement, cease to be members of that group and remain affiliated as members of another consolidated group, an election under this paragraph (b)(2)(ii)(D)(*1*) may be made only if it is made by each such member. Each statement must also indicate that an agreement, as described in paragraph (b)(2)(ii)(D)(*2*) of this section, has been entered into. Each party signing the agreement must retain either the original or a copy of the agreement as part of its records. See § 1.6001–1(e).

(*2*) *Agreement.* For each election under paragraph (b)(2)(ii) of § 1.1502–76, the member and the common parent of each affected group must sign and date an agreement. The agreement must—

(*i*) Identify the extraordinary items, their amounts, and the separate or consolidated returns in which they are included;

(*ii*) Identify the aggregate amount to be ratably allocated, and the portion of the amount included in the separate and consolidated returns; and

(*iii*) Include the name and employer identification number of the common parent (if any) of each group that must take the items into account.

(b)(2)(iii) through (c) [Reserved]. For further guidance, see § 1.1502–76(b)(2)(iii) through (c).

(d) *Effective date*—(1) *Applicability date.* This section applies to any original consolidated Federal income tax return due (without extensions) after May 30, 2006. However, a consolidated group may apply this section to any original consolidated Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

■ **Par. 45.** Section 1.1502–95 is amended by revising paragraphs (e)(8) and (f) and adding paragraph (g) to read as follows:

§ 1.1502–95 Rules on ceasing to be a member of a consolidated group (or loss subgroup).

* * * * *

(e) * * *

(8) [Reserved]. For further guidance, see § 1.1502–95T(e)(8).

(f) through (g) [Reserved]. For further guidance, see § 1.1502–95T(f) through (g)(1).

Par. 46. Section 1.1502–95T is added to read as follows:

§ 1.1502–95T Rules on ceasing to be a member of a consolidated group (or loss subgroup) (temporary).

(a) through (e)(7) [Reserved]. For further guidance, see § 1.1502–95(a) through (e)(7).

(8) *Reporting requirements*—(i) *Common Parent.* Except as provided in paragraph (e)(8)(iii) of this section, if a net unrealized built-in loss is allocated under paragraph (e) of § 1.1502–95, the common parent must include a statement entitled, ''STATEMENT OF NET UNREALIZED BUILT-IN LOSS ALLOCATION PURSUANT TO § 1.1502–95(e),'' on or with its income tax return for the taxable year in which the former member(s) (or a new loss subgroup that includes that member) ceases to be a member. The statement must include—

(A) The name and employer identification number of the departing member;

(B) The amount of the remaining NUBIL balance for the taxable year in which the member departs;

(C) The amount of the net unrealized built-in loss allocated to the departing member; and

(D) A representation that the common parent has delivered a copy of the statement to the former member (or the common parent of the group of which the former member is a member) on or before the day the group files its income tax return for the consolidated return year that the former member ceases to be a member.

(ii) *Former Member.* Except as provided in paragraph (e)(8)(iii) of this section, the former member must include a statement on or with its first income tax return (or the first return in which the former member joins) that is filed after the close of the consolidated return year of the group of which the former member (or a new loss subgroup that includes that member) ceases to be a member. The statement will be identical to the statement filed by the common parent under paragraph (e)(8)(i) of this section except that instead of including the information described in paragraph (e)(8)(i)(A) of this section the former member must provide the name, employer identification number and tax year of the former common parent, and instead of the representation described in paragraph (e)(8)(i)(D) of this section the former member must represent that it has received and retained the copy of the statement delivered by the common parent as part of its records. See § 1.6001–1(e).

(iii) *Exception.* This paragraph (e)(8) does not apply if the required information (other than the amount of the remaining NUBIL balance) is included in a statement of election under paragraph (f) of this section (relating to apportioning a section 382 limitation).

(f) *Filing the election to apportion the section 382 limitation and net unrealized built-in gain*—(1) *Form of the election to apportion*—(i) *Statement.* An election under paragraph (c) of § 1.1502–95 must be made in the form set forth in this paragraph (f)(1)(i). The election must be made by the common parent and the party described in paragraph (f)(2) of this section. It must

be filed in accordance with paragraph (f)(3) of this section and be entitled, ''THIS IS AN ELECTION UNDER § 1.1502–95 TO APPORTION ALL OR PART OF THE [INSERT THE CONSOLIDATED SECTION 382 LIMITATION, THE SUBGROUP SECTION 382 LIMITATION, THE LOSS GROUP'S NET UNREALIZED BUILT-IN GAIN, OR THE LOSS SUBGROUP'S NET UNREALIZED BUILT-IN GAIN, AS APPROPRIATE] IN THE AMOUNT OF [INSERT THE AMOUNT OF THE LOSS LIMITATION OR NET UNREALIZED BUILT-IN GAIN] TO [INSERT NAME(S) AND EMPLOYER IDENTIFICATION NUMBER(S) OF THE CORPORATION (OR THE CORPORATIONS THAT COMPOSE A NEW LOSS SUBGROUP) TO WHICH ALLOCATION IS MADE].'' The statement must also indicate that an agreement, as described in paragraph (f)(1)(ii) of this section, has been entered into.

(ii) *Agreement.* Both the common parent and the party described in paragraph (f)(2) of this section must sign and date the agreement. The agreement must include, as appropriate—

(A) The date of the ownership change that resulted in the consolidated section 382 limitation (or subgroup section 382 limitation) or the loss group's (or loss subgroup's) net unrealized built-in gain;

(B) The amount of the departing member's (or loss subgroup's) pre-change net operating loss carryovers and the taxable years in which they arose that will be subject to the limitation that is being apportioned to that member (or loss subgroup);

(C) The amount of any net unrealized built-in loss allocated to the departing member (or loss subgroup) under paragraph (e) of § 1.1502–95, which, if recognized, can be a pre-change attribute subject to the limitation that is being apportioned;

(D) If a consolidated section 382 limitation (or subgroup section 382 limitation) is being apportioned, the amount of the consolidated section 382 limitation (or subgroup section 382 limitation) for the taxable year during which the former member (or new loss subgroup) ceases to be a member of the consolidated group (determined without regard to any apportionment under this section);

(E) If any net unrealized built-in gain is being apportioned, the amount of the loss group's (or loss subgroup's) net unrealized built-in gain (as determined under paragraph (c)(2)(ii) of § 1.1502–95) that may be apportioned to members that ceased to be members during the consolidated return year;

(F) The amount of the value element and adjustment element of the consolidated section 382 limitation (or subgroup section 382 limitation) that is apportioned to the former member (or new loss subgroup) pursuant to paragraph (c) of § 1.1502–95;

(G) The amount of the loss group's (or loss subgroup's) net unrealized built-in gain that is apportioned to the former member (or new loss subgroup) pursuant to paragraph (c) of § 1.1502–95;

(H) If the former member is allocated any net unrealized built-in loss under paragraph (e) of § 1.1502–95, the amount of any adjustment element apportioned to the former member that is attributable to recognized built-in gains (determined in a manner that will enable both the group and the former member to apply the principles of § 1.1502–93(c)); and

(I) The name and employer identification number of the common parent making the apportionment.

(2) *Signing the agreement.* The agreement must be signed by both the common parent and the former member (or, in the case of a loss subgroup, the common parent and the loss subgroup parent) by persons authorized to sign their respective income tax returns. If the allocation is made to a loss subgroup for which an election under § 1.1502–91(d)(4) is made, and not separately to its members, the agreement under this paragraph (f) must be signed by the common parent and any member of the new loss subgroup by persons authorized to sign their respective income tax returns. Each party signing the agreement must retain either the original or a copy of the agreement as part of its records. See § 1.6001–1(e).

(3) *Filing of the election*—(i) *Filing by the common parent.* The election must be filed by the common parent of the group that is apportioning the consolidated section 382 limitation (or the subgroup section 382 limitation) or the loss group's net unrealized built-in gain (or loss subgroup's net unrealized built-in gain) by including the statement on or with its income tax return for the taxable year in which the former member (or new loss subgroup) ceases to be a member.

(ii) *Filing by the former member.* An identical statement must be included on or with the first return of the former member (or the first return in which the former member, or the members of a new loss subgroup, join) that is filed after the close of the consolidated return year of the group of which the former member (or the members of a new loss subgroup) ceases to be a member.

(4) *Revocation of election.* An election statement made under paragraph (c) of § 1.1502–95 is revocable only with the consent of the Commissioner.

(g) *Effective date*—(1) *Applicability date.* This section applies to any original consolidated Federal income tax return due (without extensions) after May 30, 2006. However, a consolidated group may apply this section to any original consolidated Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

■ **Par. 47.** Section 1.1563–1 is amended by revising paragraph (c)(2) and adding paragraph (e) to read as follows:

§ 1.1563–1 Definition of controlled group of corporations and component members.

* * * * *

(c) * * *

(2)(i) through (iii) [Reserved]. For further guidance, see § 1.1563–1T(c)(2)(i) through (iii).

* * * * *

(e) [Reserved]. For further guidance, see § 1.563–1T(e)(1).

* * * * *

■ **Par. 48.** Section 1.1563–1T is added to read as follows:

§ 1.1563–1T Definition of controlled group of corporations and component members (temporary).

(a) through (c)(1) [Reserved]. For further guidance, see § 1.1563–1(a) through (c)(1).

(2) *Brother-sister controlled groups*—(i) *One corporation.* If on a December 31, a corporation would, without the application of this paragraph (c)(2), be a component member of more than one brother-sister controlled group on such date, the corporation will be treated as a component member of only one such group on such date. Such corporation may elect the group in which it is to be included by including on or with its income tax return for the taxable year that includes such date a statement entitled, ''STATEMENT TO ELECT CONTROLLED GROUP PURSUANT TO § 1.1563–1T(c)(2).'' This statement must include—

(A) A description of each of the controlled groups in which the corporation could be included. The description must include the name and employer identification number of each component member of each such group and the stock ownership of the component members of each such group; and

(B) The following representation: [INSERT NAME AND EMPLOYER

IDENTIFICATION NUMBER OF CORPORATION] ELECTS TO BE TREATED AS A COMPONENT MEMBER OF THE [INSERT DESIGNATION OF GROUP].

(ii) *Multiple corporations.* If more than one corporation would, without the application of this paragraph (c)(2), be a component member of more than one controlled group, those corporations electing to be component members of the same group must file a single statement. The statement must contain the information described in paragraph (c)(2)(i) of this section, plus the names and employer identification numbers of all other corporations designating the same group. The original statement must be included on or with the original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such return) of the corporation that, among those corporations which would (without the application of this paragraph (c)(2)) belong to more than one group, has the taxable year including such December 31 which ends on the earliest date. That corporation must provide a copy of the statement to each other corporation included in the statement and represent in its statement that it has done so. Either the original or a copy of the statement must be retained by each corporation as part of its records. See § 1.6001–1(e).

(iii) *Election*—(A) *Election filed.* An election filed under this paragraph (c)(2) is irrevocable and effective until a change in the stock ownership of the corporation results in termination of membership in the controlled group in which such corporation has been included.

(B) *Election not filed.* In the event no election is filed in accordance with the provisions of this paragraph (c)(2), then the Internal Revenue Service will determine the group in which such corporation is to be included. Such determination will be binding for all subsequent years unless the corporation files a valid election with respect to any such subsequent year or until a change in the stock ownership of the corporation results in termination of membership in the controlled group in which such corporation has been included.

(c)(2)(iv) through (d) [Reserved]. For further guidance, see § 1.1563–1(c)(2)(iv) through (d).

(e) *Effective date*— (1) *Applicability date.* This section applies to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

■ **Par. 49.** Section 1.1563–3 is amended by revising paragraph (d)(2)(iv) and adding paragraph (e) to read as follows:

§ 1.1563–3 Rules for determining stock ownership.

* * * * *

(d) * * *

(2) * * *

(iv) [Reserved]. For further guidance, see § 1.1563–3T(d)(2)(iv).

* * * * *

(e) [Reserved]. For further guidance, see § 1.1563–3T(e)(1).

■ **Par. 50.** Section 1.1563–3T is added to read as follows:

§ 1.1563–3T Rules for determining stock ownership (temporary).

(a) through (d)(2)(iii) [Reserved]. For further guidance, see § 1.1563–3(a) through (d)(2)(iii).

(iv) *Statement.* If the application of paragraph (d)(2)(ii) or (iii) of § 1.1563–3 does not result in a corporation being treated as a component member of only one controlled group of corporations on a December 31, then such corporation will be treated as a component member of only one such group on such date. Such corporation may elect the group in which it is to be included by including on or with its income tax return a statement entitled, ''STATEMENT TO ELECT CONTROLLED GROUP PURSUANT TO § 1.1563–3T(d)(2)(iv).'' The statement must include—

(A) A description of each of the controlled groups in which the corporation could be included. The description must include the name and employer identification number of each component member of each such group and the stock ownership of the component members of each such group; and

(B) The following representation: [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF CORPORATION] ELECTS TO BE TREATED AS A COMPONENT MEMBER OF THE [INSERT DESIGNATION OF GROUP].

(v) *Election*— (A) *Election filed.* An election filed under paragraph (d)(2)(iv) of this section is irrevocable and effective until paragraph (d)(2)(ii) or (iii) of § 1.1563–3 applies or until a change in the stock ownership of the corporation results in termination of membership in the controlled group in which such corporation has been included.

(B) *Election not filed.* In the event no election is filed in accordance with the provisions of paragraph (d)(2)(iv) of this section, then the Internal Revenue Service will determine the group in which such corporation is to be included. Such determination will be binding for all subsequent years unless the corporation files a valid election with respect to any such subsequent year or until a change in the stock ownership of the corporation results in termination of membership in the controlled group in which such corporation has been included.

(d)(3) [Reserved]. For further guidance, see § 1.1563–3(d)(3).

(e) *Effective date*—(1) *Applicability date.* This section applies to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

■ **Par. 51.** Section 1.6012–2 is amended by revising paragraph (c) and adding paragraph (k) to read as follows:

§ 1.6012–2 Corporations required to make returns of income.

* * * * *

(c) [Reserved]. For further guidance, see § 1.6012–2T(c).

* * * * *

(k) [Reserved]. For further guidance, see § 1.6012–2T(k)(1).

■ **Par. 52.** Section 1.6012–2T is added to read as follows:

§ 1.6012–2T Corporations required to make returns of income (temporary).

(a) through (b) [Reserved]. For further guidance, see § 1.6012–2(a) through (b).

(c) *Insurance companies*—(1) *Domestic life insurance companies*—(i) *In general.* A life insurance company subject to tax under section 801 shall make a return on Form 1120L. Except as provided in paragraph (c)(4) of this section, such company shall file with its return—

(A) A copy of its annual statement which shows the reserves used by the company in computing the taxable income reported on its return; and

(B) A copy of Schedule A (real estate) and of Schedule D (bonds and stocks), or any successor thereto, of such annual statement.

(ii) *Mutual savings banks.* Mutual savings banks conducting life insurance business and meeting the requirements of section 594 are subject to partial tax computed on Form 1120 and partial tax computed on Form 1120L. The Form 1120L is attached as a schedule to Form

1120, together with the annual statement and schedules required to be filed with Form 1120L.

(2) *Domestic nonlife insurance companies.* Every domestic insurance company other than a life insurance company shall make a return on Form 1120PC. This includes organizations described in section 501(m)(1) that provide commercial-type insurance and organizations described in section 833. Except as provided in paragraph (c)(4) of this section, such company shall file with its return a copy of its annual statement (or a pro forma annual statement), including the underwriting and investment exhibit for the year covered by such return.

(3) *Foreign insurance companies.* The provisions of paragraphs (c)(1) and (c)(2) of this section concerning the returns and statements of insurance companies subject to tax under section 801 or section 831 also apply to foreign insurance companies subject to tax under those sections, except that the copy of the annual statement required to be submitted with the return shall, in the case of a foreign insurance company that is not required to file an annual statement, be a copy of the pro forma annual statement relating to the United States business of such company.

(4) *Exception for insurance companies filing their Federal income tax returns electronically.* If an insurance company described in paragraph (c)(1), (c)(2), or (c)(3) of this section files its Federal income tax return electronically, it should not include on or with such return its annual statement (or pro forma annual statement), or any portion thereof. Such statement must be available at all times for inspection by authorized Internal Revenue Service officers or employees and retained for so long as such statements may be material in the administration of any internal revenue law. See § 1.6001–1(e).

(5) *Definition.* For purposes of this section, the term *annual statement* means the annual statement, the form of which is approved by the National Association of Insurance Commissioners (NAIC), which is filed by an insurance company for the year with the insurance departments of States, Territories, and the District of Columbia. The term annual statement also includes a pro forma annual statement if the insurance company is not required to file the NAIC annual statement.

(d) through (j) [Reserved]. For further guidance, see § 1.6012–2(d) through (j).

(k) *Effective date—(1) Applicability date.* This section applies to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of this section will expire on May 26, 2009.

■ **Par. 53.** For each entry in the ''Location'' column of the following table, remove the language in the ''Remove'' column and add the language in the ''Add'' column in its place:

Location	Remove	Add
The last sentence of the introductory text to § 1.302–4.	The following rules shall be applicable in determining whether the specific requirements of section 302(c)(2) are met:	The rules described in paragraph (a) of § 1.302–4T and in paragraphs (b) through (g) of this section apply in determining whether the specific requirements of section 302(c)(2) are met.
§ 1.338(h)(10)-1(f)	§ 1.331-1(d), and § 1.332-6	§ 1.331-1T(d) and § 1.332-6T
The last sentence of § 1.382–2T(h)(4)(vi)(B)	paragraph (a)(2)(ii) of this section	paragraph (a) of § 1.382–11T
The first sentence of § 1.382–6(b)(2)(i)	§ 1.382-2T(a)(2)(ii)	§ 1.382–11T(a)
The second sentence of § 1.382–8(a)	paragraph (c) of this section	paragraphs (c)(1), (c)(3), (c)(4) and (c)(5) of this section and paragraph (c)(2) of § 1.382.8T
The third sentence of § 1.382-8(a)	paragraph (c) of this section	paragraphs (c)(1), (c)(3), (c)(4) and (c)(5) of this section and paragraph (c)(2) of § 1.382-8T
§ 1.382–8(c)(3)	paragraph (c)(2) of this section	paragraph (c)(2) of § 1.382–8T
The first sentence of § 1.382–8(c)(4)	paragraphs (c)(1), (2), and (3) of this section	paragraphs (c)(1) and (c)(3) of this section and paragraph (c)(2) of § 1.382–8T
§ 1.382–8(c)(5)	this paragraph (c)	paragraphs (c)(1), (c)(3), (c)(4), and (c)(5) of this section, and paragraph (c)(2) of § 1.382–8T
The fifth sentence of § 1.382–8(f)	paragraph (c) of this section	paragraphs (c)(1), (c)(3), (c)(4), and (c)(5) of this section, and paragraph (c)(2) of § 1.382–8T
§ 1.382–8(g), *Example* (1)(b)(2)	paragraph (c) of this section	paragraphs (c)(1), (c)(3), (c)(4), and (c)(5) of this section, and paragraph (c)(2) of § 1.382–8T
The second sentence of § 1.382–8(g), *Example* (1)(c).	paragraph (c) of this section	paragraphs (c)(1), (c)(3), (c)(4), and (c)(5) of this section, and paragraph (c)(2) of § 1.382–8T
§ 1.382–8(g), *Example* (2)(c)	paragraph (c)(2) of this section	paragraph (c)(2) of § 1.382–8T
The first sentence of § 1.382–8(g), *Example* (2)(e).	paragarph (c)(2) of this section	paragraph (c)(2) of § 1.382–8T
§ 1.382–8(g), *Example* (3)(b)	paragraph (c)(2) of this section	paragraph (c)(2) of § 1.382–8T
§ 1.382–8(g), *Example* (3)(c)(1)(B)	paragraphs (c)(1) and (2) of this section	paragraph (c)(1) of this section and paragraph (c)(2) of § 1.382–8T
The second sentence of § 1.382–8(g), *Example* (4)(c).	paragraph (c)(2) of this section	paragraph (c)(2) of § 1.382–8T
The second sentence of § 1.382–8(g), *Example* (5)(c).	paragraph (c)(2) of this section	paragraph (c)(2) of § 1.382–8T
The first sentence of § 1.1502–32(b)(4)(v)(A)	paragraph (b)(4)(iv) of this section	paragraph (b)(4)(iv) of § 1.1502–32T
The first sentence of § 1.1502–32(b)(4)(v)(B)	paragraph (b)(4)(iv) of this section	paragraph (b)(4)(iv) of § 1.1502–32T
§ 1.1502–35(c)(4)(ii)(B)	§ 1.1502–76(b)(2)(ii)(D)	§ 1.1502–76T(b)(2)(ii)(D)
§ 1.1502–76(b)(2)(ii)(A)(*2*)	paragraph (b)(2)(ii)(D) of this section	paragraph (b)(2)(ii)(D) of § 1.1502–76T

Location	Remove	Add
§ 1.1502-92(e)(1)	§ 1.382–2T(a)(2)(ii)	§ 1.382–11T(a)
The first sentence of § 1.1502–92(e)(2)	§ 1.382-2T(a)(2)(ii)	§ 1.382–11T(a)
The first sentence of § 1.1502–94(d)	§ 1.382–2T(a)(2)(ii)	§ 1.382–11T(a)
The second sentence of § 1.1502–94(d)	§ 1.382-2T(a)(2)(ii)	§ 1.382–11T(a)
The last sentence of § 1.1502–95(b)(3)	paragraph (f) of this section	paragraph (f) of § 1.1502–95T
The last sentence of § 1.1563–1(c)(2)(iv), *Example* (1).	subdivision (ii) of this subparagraph	paragraph (c)(2)(i) of § 1.1563–1T
The last sentence of § 1.1563–1(c)(2)(iv), *Example* (1).	the district director with audit jurisdiction of N's return.	the Internal Revenue Service
The third sentence of § 1.1563–1(c)(2)(iv), *Example* (2).	subdivision (iii) of this subparagraph	paragraph (c)(2)(ii) of § 1.1563–1T
The third sentence of § 1.1563–1(c)(2)(iv), *Example* (2).	the district director with audit jurisdiction of the return of the corporation whose taxable year ends on the earliest date.	the Internal Revenue Service
The last sentence of § 1.1563–1(c)(2)(iv), *Example* (2).	district director	Internal Revenue Service
The second sentence of § 1.1563–3(d)(2)(i)	subdivisions (ii), (iii), and (iv) of this subparagraph.	paragraphs (d)(2)(ii) and (iii) of this section, and paragraph (d)(2)(iv) of § 1.1563–3T
The first sentence of § 1.6043–2(a)	§ 1.332–6(b), § 1.368–3(a), or § 1.1081–11	§ 1.332–6T(a), § 1.368-3T(a), or § 1.1081–11T
The first sentence of § 301.6011–5T(a) (twice)	§ 1.6012-2	paragraphs (a), (b) and (d) through (j) of § 1.6012–2, and paragraph (c) of § 1.6012–2T

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 54.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 55.** In § 602.101, paragraph (b) is amended to read as follows:

■ 1. The following entries to the table are removed:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified or described	Current OMB control No.
* * * * *	
1.332–6	1545–2019
1.382–11	1545–2019
1.351–3	1545–2019
1.355–5	1545–2019
1.368–3	1545–2019
1.1081–11	1545–2019
* * * * *	

■ 2. The following entries are added in numerical order to the table:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified or described	Current OMB control No.
* * * * *	
1.302–2T	1545–2019
1.302–4T	1545–2019
1.331–1T	1545–2019
1.332–6T	1545–2019
1.338–10T	1545–2019
1.351–3T	1545–2019
1.355–5T	1545–2019
1.368–3T	1545–2019
1.381(b)–1T	1545–2019
1.382–8T	1545–2019
1.382–11T	1545–2019
1.1081–11T	1545–2019
1.1221–2T	1545–2019
1.1502–13T	1545–2019
1.1502–31T	1545–2019
1.1502–32T	1545–2019
1.1502–33T	1545–2019
1.1502–35T	1545–2019
1.1502–76T	1545–2019
1.1502–95T	1545–2019
1.1563–1T	1545–2019
1.1563–3T	1545–2019
1.6012–2T	1545–2019
* * * * *	

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: May 19, 2006.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 06–4873 Filed 5–26–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 211 and 398

Removal of Parts

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense is removing 32 CFR part 211, ''DoD Foreign Tax Relief Program'' and 32 CFR part 398, ''Defense Logistics Agency''. The parts have served the purpose for which they were codified in the CFR and are no longer applicable.

DATES: This rule is effective May 30, 2006.

FOR FURTHER INFORMATION CONTACT: L. Bynum, 703–696–4970.

SUPPLEMENTARY INFORMATION: DoD Instruction 5100.63, ''DoD Foreign Tax Relief Program'' and DoD Directive 5105.22, ''Defense Logistics Agency'' may be found at *http://www.dtic.mil/whs/directives/.*

List of Subjects

32 CFR Parts 211

Armed forces, Foreign relations, Statistics, Taxes.

32 CFR Part 398

Organization and functions (Government agencies).

PARTS 211 AND 398—[REMOVED]

■ Accordingly, by the authority of 10 U.S.C. 301, 32 CFR parts 211 and 398 are removed.

Dated: May 23, 2006.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–4915 Filed 5–26–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–06–023]

RIN 1625–AA08

Special Local Regulations for Marine Events; Pasquotank River, Elizabeth City, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations for a power boat race to be held on the waters of the Pasquotank River, Elizabeth City, North Carolina. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Pasquotank River adjacent to Elizabeth City, North Carolina during the power boat race.

DATES: This rule is effective from 7:30 a.m. on June 10, to 7 p.m. on June 11, 2006.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD05–06–023) and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Project Manager, Inspections and Investigations Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 17, 2006, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Pasquotank River, Elizabeth City, NC in the **Federal Register** (71 FR 19670). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, spectator craft and other vessels transiting the event area. However advance notifications will be made to affected waterway users via marine information broadcasts, local radio stations and area newspapers.

Background and Purpose

On June 10 and 11, 2006, the Virginia Boat Racing Association will sponsor the ''Carolina Cup'', an event previously announced as the ''Roar on the River Rampage'', on the waters of the Pasquotank River. The event will consist of approximately 60 inboard hydroplanes racing in heats counter-clockwise around an oval racecourse. A fleet of spectator vessels is anticipated to gather nearby to view the competition. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. However, a minor change has been made because the event sponsor, Virginia Boat Racing Association has renamed the event as the ''Carolina Cup'' power boat race.

Regulatory Evaluation

This temporary rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this temporary regulation will prevent traffic from transiting a portion of the Pasquotank River adjacent to Elizabeth City, North Carolina during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect. Extensive advance notifications will be made to the maritime community via Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. Vessel traffic will be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This temporary rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit this section of the Pasquotank River during the event.

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be enforced for only a short period, from 7:30 a.m. to 7 p.m. on June 10 and 11, 2006. The regulated area will apply to a segment of the Pasquotank River adjacent to the Elizabeth City waterfront. Marine traffic may be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through the regulated area during the event, vessels will be required to proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course. Before the enforcement period, we would issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for

compliance, please contact the Coast Guard at the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this temporary rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this temporary rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under that section.

Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary *§ 100.35–T05–023* to read as follows:

§ 100.35–T05–023, Pasquotank River, Elizabeth City, North Carolina.

(a) *Regulated area.* The regulated area is established for the waters of the Pasquotank River, adjacent to Elizabeth City, NC, from shoreline to shoreline, bounded on the west by the Elizabeth City Draw Bridge and bounded on the east by a line originating at a point along the shoreline at latitude 36°17′54″ N, longitude 076°12′00″ W, thence southwesterly to latitude 36°17′35″ N, longitude 076°12′18″ W, at Cottage Point. All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector North Carolina.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector North Carolina with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the ''Carolina Cup'' under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector North Carolina.

(c) *Special local regulations.* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must: (i) Stop the vessel

immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Enforcement period.* This section will be enforced from 7:30 a.m. to 7 p.m. on June 10 and 11, 2006.

Dated: May 19, 2006.

Larry L. Hereth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E6–8296 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–06–024]

RIN 1625–AA08

Special Local Regulations for Marine Events; Rappahannock River, Essex County, Westmoreland County, Layton, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the ''2006 Rappahannock River Boaters Association Spring and Fall Radar Shootout'', power boat races to be held on the waters of the Rappahannock River near Layton, VA. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the Rappahannock River during the event.

DATES: This rule is effective from 11:30 a.m. on June 3, 2006, to 4:30 p.m. on October 8, 2006.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD05–06–024) and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Marine Events Coordinator, Fifth Coast Guard District, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 3, 2006, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Rappahannock River, Essex County, Westmoreland County, Layton, VA in the **Federal Register** (71 FR 16525). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, spectator craft and other vessels transiting the event area. However advance notifications will be made to affected waterway users via marine information broadcasts, local radio stations and area newspapers.

Background and Purpose

On June 3 and 4, 2006; and October 7 and 8, 2006, the Rappahannock River Boaters Association (RRBA) will sponsor the ''2006 RRBA Spring and Fall Radar Shootout'', on the waters of the Rappahannock River near Layton, Virginia. The event will consist of approximately 35 powerboats participating in high-speed competitive races, traveling along a 3-mile strait line race course. Participating boats will race individually within the designated course. A fleet of spectator vessels is anticipated to gather nearby to view the competition. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the Rappahannock River, near Layton, Virginia.

Regulatory Evaluation

This temporary rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this regulation will prevent traffic from transiting a portion of the Rappahannock River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, local radio stations and area newspapers, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this temporary rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this temporary rule would not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit this section of the Rappahannock River during the event.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be enforced for only a short period, from 11:30 a.m. to 4:30 p.m. on June 3 and 4, 2006; and from 11:30 a.m. to 4:30 p.m. on October 7 and 8, 2006. Although the regulated area will apply to a 3 mile segment of the Rappahannock River immediately east of Layton, Virginia, traffic may be allowed to pass through the regulated

area with the permission of the Coast Guard patrol commander. In the case where the patrol commander authorizes passage through the regulated area during the event, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This temporary rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this temporary rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this temporary rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This temporary rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This temporary rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this temporary rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This temporary rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this temporary rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This temporary rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this temporary rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation.

Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 100.35–T05–024 to read as follows:

§ 100.35–T05–024, Rappahannock River, Essex County, Westmoreland County, Layton, VA.

(a) *Regulated area.* The regulated area is established for the waters of the Rappahannock River, adjacent to Layton, VA, from shoreline to shoreline, bounded on the west by a line running along longitude 076°58′30″ W, and bounded on the east by a line running

along longitude 076°56′00″ W. All coordinates reference Datum NAD 1983.

(b) *Definitions:* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Hampton Roads.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Hampton Roads with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Regulations:* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Enforcement period.* This section will be enforced from 11:30 a.m. to 4:30 p.m. on June 3 and 4, 2006; and 11:30 a.m. to 4:30 p.m. on October 7 and 8, 2006.

Dated: May 19, 2006.

Larry L. Hereth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E6–8297 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–06–020]

RIN 1625–AA08

Special Local Regulation for Marine Events; Nanticoke River, Sharptown, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations during the ''Bo Bowman Memorial—Sharptown Regatta'', a marine event to be held on the waters of the Nanticoke River near Sharptown, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the Nanticoke River during the event.

DATES: This rule is effective from 9:30 a.m. on June 17, to 6:30 p.m. on June 18, 2006.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD05–06–020) and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Project Manager, Inspections and Investigations Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 27, 2006, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Nanticoke River, Sharptown, MD in the **Federal Register** (71 FR 15095). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, spectator craft and other vessels transiting the event area. However advance notifications will be made to affected waterway users via marine information broadcasts, local radio stations and area newspapers.

Background and Purpose

On June 17 and 18, 2006, the Carolina Virginia Racing Association will sponsor the ''Bo Bowman Memorial—Sharptown Regatta'', on the waters of the Nanticoke River at Sharptown, Maryland. The event will consist of approximately 100 hydroplanes and runabout conducting high-speed competitive races on the waters of the Nanticoke River between the Maryland S.R. 313 Highway Bridge and Nanticoke River Light 43 (LLN 24175). A fleet of spectator vessels normally gathers nearby to view the competition. Due to the need for vessel control before, during and after the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the Nanticoke River, Sharptown, Maryland.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this regulation will prevent traffic from transiting a portion of the Nanticoke River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, local radio stations and area newspapers, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic may transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Nanticoke River during the event.

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule would be in effect for only a limited period. Vessel traffic may transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under that section.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 100.35-T05–020 to read as follows:

§ 100.35–T05–020, Nanticoke River, Sharptown, MD.

(a) *Definitions:* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the Bo Bowman Memorial—Sharptown Regatta under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(b) *Regulated area* includes all waters of the Nanticoke River, near Sharptown, Maryland, between Maryland S.R. 313 Highway Bridge and Nanticoke River Light 43 (LLN 24175), bounded by a line drawn between the following points: southeasterly from latitude 38°32′46″ N, longitude 075°43′14″ W; to latitude 38°32′42″ N, longitude 075°43′09″ W; thence northeasterly to latitude 38°33′04″ N, longitude 075°42′39″ W; thence northwesterly to latitude 38°33′09″ N, longitude 075°42′44″ W; thence southwesterly to latitude 38°32′46″ N, longitude 075°43′14″ W. All coordinates reference Datum NAD 1983.

(c) Special local regulations: (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that reduces wake near the race course.

(d) *Enforcement period.* This section will be enforced from 9:30 a.m. to 6:30 p.m. on June 17 and 18, 2006.

Dated: May 15, 2006.

S. Ratti,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.

[FR Doc. E6–8219 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[CG01–05–101]

RIN 1625–AA01 (Previously reported as RIN 1625–AA98)

Anchorage Regulations; Port of New York and Vicinity

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Special Anchorage Area in Haverstraw Bay on the Hudson River adjacent to Haverstraw, NY. This action is necessary to facilitate safe navigation in that area and provide safe and secure anchorages for vessels not more than 20 meters in length. This action is intended to increase the safety of life and property on the Hudson River, improve the safety of anchored vessels, and provide for the overall safe and efficient flow of recreational vessel traffic and commerce.

DATES: This rule is effective June 29, 2006.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–05–101) and are available for inspection or copying at Waterways Management Division (CGD01–05–101), Coast Guard Sector New York, 212 Coast Guard Drive, room 321, Staten Island, New York 10305 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander M. McBrady, Waterways Management Division, Coast Guard Sector New York at (718) 354–2353.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On January 19, 2006, we published a notice of proposed rulemaking (NPRM) entitled Anchorage Regulations; Port of New York and Vicinity in the **Federal Register** (71 FR 3025). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

As part of a waterfront revitalization effort the Village of Haverstraw is encouraging waterfront use by the general public. This rule is in response to a request made by the Village of Haverstraw to ensure the safe navigation of increased vessel traffic expected to arrive along the village waterfront due to this revitalization effort.

The Coast Guard is designating an area as a special anchorage area in accordance with 33 U.S.C. 471. In accordance with that statute, vessels will not be required to sound signals or exhibit anchor lights or shapes which are otherwise required by rule 30 and 35 of the Inland Navigation Rules, codified at 33 U.S.C. 2030 and 2035.

The special anchorage area will be located on the west side of the Hudson River about 1,800 yards south of Bowline Point, well removed from the channel and located where general navigation will not endanger or be endangered by unlighted vessels. Providing anchorage well removed from the channel and general navigation will greatly increase navigational safety.

This special anchorage area is part of a waterfront revitalization project authorized under U.S. Army Corps of Engineers permit number 2004–00596–YR.

Discussion of Comments and Changes

No comments were received, and no changes were made from the proposed rule.

Discussion of Rule

This rule creates a new special anchorage area located on the Hudson River at the Village of Haverstraw, New York, on Haverstraw Bay. It includes all waters of the Hudson River bound by the following points: 41°11′25.2″ N, 073°57′19.9″ W; thence to 41°11′34.2″ N, 073°57′00.8″ W; thence to 41°11′41.9″ N, 073°57′07.5″ W; thence to 41°11′31.8″ N, 073°57′26.5″ W; thence to 41°11′30.8″ N, 073°57′24.9″ W; thence to the point of origin (NAD 1983). All coordinates are North American Datum 1983 (NAD 83).

The special anchorage area is limited to vessels no greater than 20 meters in length. Vessels not more than 20 meters in length are not required to sound signals as required by rule 35 of the Inland Navigation Rules (33 U.S.C. 2035) nor exhibit anchor lights or shapes required by rule 30 of the Inland Navigation Rules (33 U.S.C 2030) when at anchor in a special anchorage area. Additionally, mariners utilizing the anchorage areas are encouraged to contact local and state authorities, such as the local harbormaster, to ensure

compliance with additional applicable state and local laws. Such laws may involve, for example, compliance with direction from the local harbormaster when placing or using moorings within the anchorage.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This finding is based on the fact that this special anchorage area does not extend past the 18-foot contour on the west side of the Hudson River, which leaves approximately 1,680 yards of safe water before reaching the 18-foot contour on the east side of the Hudson River. The resulting impact to vessel transits in this area is so minimal, because the special anchorage area leaves more than enough room for the navigation of all vessels. This will allow for greater safety of navigation and traffic in the area, while also providing for a substantial improvement to the safety of anchorages in the area.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: The owners or operators of recreational or commercial vessels intending to transit in a portion of the Hudson River near or through the special anchorage area. However, this special anchorage area will not have a significant economic impact on these entities for the following reasons. The special anchorage area does not extend past the 18-foot contour on the west side of the Hudson River. This leaves approximately 1,680 yards of safe water before reaching the 18-foot contour on the east side of the Hudson River. It is also about 800 yards from the 600-foot wide Hudson River Federal Project Channel. This is more than enough room for the types of vessels currently operating on the river, which include both small and large commercial vessels. Thus this special anchorage area will not impede safe and efficient vessel transits on the Hudson River.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. The Coast Guard did not receive any requests for assistance with this rulemaking.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency

provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(f), of the Instruction, from further environmental documentation. This rule fits the category selected from paragraph (34)(f) as it establishes a special anchorage area.

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471; 1221 through 1236, 2030, 2035 and 2071; 33 CFR 1.05–1(g); and Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 110.60 to add new paragraph (p)(p–3) to read as follows:

§ 110.60 Port of New York and vicinity.

* * * * *

(p) * * *

(p–3) *Hudson River, at Village of Haverstraw.* That portion of the Hudson River bound by the following points: 41°11′25.2″ N, 073°57′19.9″ W; thence to 41°11′34.2″ N, 073°57′00.8″ W; thence to 41°11′41.9″ N, 073°57′07.5″ W; thence to 41°11′31.8″ N, 073°57′26.5″ W; thence to 41°11′30.8″ N, 073°57′24.9″ W; thence to the point of origin (NAD 1983).

* * * * *

Dated: May 11, 2006.

Mark J. Campbell,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. E6–8298 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AM38

Amended Delegation of Authority—Property Management Contractor

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its delegation of authority to the property management contractor under its housing loan program. This amendment will permit the property management contractor's Regional Managers to execute documents necessary for the management and sale of single-family properties acquired by VA under its housing loan guaranty program.

DATES: *Effective Date:* May 30, 2006.

FOR FURTHER INFORMATION CONTACT: William W. Lutes, Assistant Director for Property Management and Strategic Development (263), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., Washington, DC 20420, telephone 202–273–7379.

SUPPLEMENTARY INFORMATION: The provisions of 38 U.S.C. chapter 37 authorize the Secretary of Veterans Affairs to guarantee (or make) loans to veterans. Following the termination of guaranteed loans that have been in serious default, the holder of such loan may, pursuant to 38 U.S.C. 3732(c), elect to convey to the Secretary the property which had secured the loan. VA sells the properties so acquired to the general public in order to reduce the loss to the Federal Treasury on the guaranteed loan. The sale of such properties is not a veterans' benefit granted under title 38, United States Code.

VA has contracted with a private entity to handle the management and resale of VA's inventory of acquired properties. To facilitate the contract's objectives, VA, in 38 CFR 36.4342(f)(2), has delegated to designated officials of that entity the authority to execute, on behalf of VA, routine documents necessary for the management and sale of VA acquired properties. The designated officials under such delegation are the Senior Vice President, Vice President, Assistant Vice President, Assistant Secretary, Director, and Senior Manager.

This rule amends 38 CFR 36.4342(f)(2) to add the position of ''Regional Manager'' to the list of officers of the contractor to whom the Secretary has delegated authority to execute such property management and sales documents. Workload and staffing of the contractor has led VA to conclude that so expanding the list of positions to which this authority is delegated will increase the efficiency of the administration of the property management contract.

Administrative Procedure Act

This final rule concerns agency statements of policy, organization, procedure, or practice, and pursuant to 5 U.S.C. 553, is exempt from the notice and comment and delayed effective date requirements.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more (adjusted annually for inflation) in any given year. This final rule would have no such effect on State, local, and tribal governments, or the private sector.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The final rule relates to agency management and personnel and does not contain substantive provisions affecting small entities. Accordingly, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it meets any one of a number of specified conditions, including: having an annual effect on the economy of $100 million or more, creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. VA has examined the economic, legal, and policy implications of this final rule and has concluded that it is not a significant regulatory action under Executive Order 12866.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance program numbers and titles for this final rule are 64.114 Veterans Housing—Guaranteed and Insured Loans and 64.119 Veterans Housing—Manufactured Home Loans.

List of Subjects in 38 CFR Part 36

Condominiums, Flood Insurance, Housing, Indians, Individuals with disabilities, Loan programs-housing and community development, Loan programs, Indians, Loan programs-veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Approved: April 27, 2006.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

■ For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 36 as set forth below:

PART 36—LOAN GUARANTY

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 38 U.S.C. 501, 3701–3704, 3707, 3710–3714, 3719, 3720, 3729, 3762, unless otherwise noted.

■ 2. Revise paragraph (f)(2) of § 36.4342 to read as follows:

§ 36.4342 Delegation of authority.

* * * * *

(f) * * *

(2) The designated officers are: Senior Vice President, Vice President, Assistant Vice President, Assistant Secretary, Director, Senior Manager, and Regional Manager.

* * * * *

[FR Doc. E6–8196 Filed 5–26–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7927]

Suspension of Community Eligibility

AGENCY: Mitigation Division, Federal Emergency Management Agency (FEMA), Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you want to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office.

FOR FURTHER INFORMATION CONTACT: William H. Lesser, Mitigation Division, 500 C Street SW., Washington, DC 20472, (202) 646–2807.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part

10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism

This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform

This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 is revised to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region I				
New Hampshire: Cornish, Town of, Sullivan County..	330155	August 27, 1975, Emerg; April 18, 1983, Reg; May 23, 2006, Susp..	05/23/2006	05/23/2006
Marlow, Town of, Cheshire County.	330025	November 3, 1975, Emerg; April 2, 1986, Reg; May 23, 2006, Susp..	05/23/2006	05/23/2006
Newport, Town of, Sullivan County.	330161	May 12, 1975, Emerg; April 18, 1983, Reg; May 23, 2006, Susp..	05/23/2006	05/23/2006
Roxbury, Town of, Cheshire County.	330172	November 10, 1980, Emerg; April 1, 1982, Reg; May 23, 2006, Susp..	05/23/2006	05/23/2006
Westmoreland, Town of, Cheshire County.	330238	October 12, 1976, Emerg; April 2, 1986, Reg; May 23, 2006, Susp..	05/23/2006	05/23/2006

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: May 11, 2006.

David I. Maurstad,

Mitigation Division Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–8251 Filed 5–26–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 060216041-6137-02; I.D. 020206C]

RIN 0648-AT72

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quota Specifications and Effort Controls

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS announces the final initial 2006 fishing year specifications for the Atlantic bluefin tuna (BFT) fishery to set BFT quotas for each of the established domestic fishing categories and to set General and Angling category effort controls. This action is necessary to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: The final rule is effective June 29, 2006 except that the General and Angling category retention limits are effective as indicated in Table 1 in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Supporting documents, including the environmental assessment (EA), final Regulatory Flexibility Act analysis (FRFA), and regulatory impact review(RIR), are available by sending your request to Dianne Stephan, Highly Migratory Species (HMS) Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, One Blackburn Dr., Gloucester, MA 01930; Fax: 978-281-9340. These documents are also available from the HMS Management Division website at *http://www.nmfs.noaa.gov/sfa/hms/* or at the Federal e-Rulemaking Portal: *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Dianne Stephan at (978) 281-9260 or email *Dianne.Stephan@noaa.gov*.

SUPPLEMENTARY INFORMATION: Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Act and the ATCA. The ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations, as may be necessary and appropriate, to implement ICCAT recommendations. The authority to issue regulations under the Magnuson-Stevens Act and the ATCA has been delegated from the

Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

Effective Dates for General and Angling Category Retention Limits

The General and Angling category retention limits are effective as indicated in Table 1 below.

TABLE 1. EFFECTIVE DATES FOR RETENTION LIMIT ADJUSTMENTS.

Permit Category	Effective Dates	Area	BFT Retention Limit
Atlantic tunas General and HMS Charter/Headboat (while fishing commercially).	June 1 through August 31, inclusive.	All	Three BFT per vessel measuring 73 inches (185 cm) CFL or larger.
Atlantic tunas General and HMS Charter/Headboat (while fishing commercially).	September 1, 2006 through January 31, 2007, inclusive.	All	One BFT per vessel measuring 73 inches (185 cm) CFL or larger.
HMS Angling and HMS Charter/Headboat (while fishing recreationally).	June 1, 2006 through May 31, 2007, inclusive.	All	Two BFT per vessel measuring 47 inches (119 cm) to less than 73 inches (185 cm) CFL.
HMS Angling and HMS Charter/Headboat (while fishing recreationally).	July 1 through 21, 2006, inclusive.	South of 39°18′ North latitude	One BFT per vessel measuring 27 inches (69 cm) to less than 47 inches (119 cm) CFL.
HMS Angling and HMS Charter/Headboat (while fishing recreationally).	August 25 through September 14, 2006, inclusive.	North of 39°18′ North latitude	One BFT per vessel measuring 27 inches (69 cm) to less than 47 inches (119 cm) CFL.

Background

Background information about the need for the final initial BFT quota specifications and General category effort controls was provided in the preamble to the proposed rule (71 FR 9507, February 24, 2006), and is not repeated here. By this rule, NMFS announces the final initial BFT quota specifications and General and Angling category effort controls.

Changes From Proposed Rule

Subsequent to the proposed rule, NMFS finalized a report analyzing methodologies used to measure BFT in the Large Pelagics Survey (LPS) which is an angler survey used to estimate recreational harvest. Based on this report, NMFS determined that an adjustment to Angling category landings in 2002-2004 of −4.88 percent was appropriate. The final rule includes a 40.9-mt increase in overall Angling category quota from the proposed rule, reflecting this adjustment. In addition, this adjustment increases the school size class (27 inches to less than 47 inches, 69 cm to less than 119 cm) subquota by 43.5 mt. The subquota for the trophy size class (73 inches and above, 185 cm and above) was also increased by 4.8 mt due to a mathematical error in the proposed rule, and the large school/small medium (47 inches to less than 73 inches, 119 cm to less than 185 cm) was decreased by 7.4 mt due to a combination of the 4.88 percent adjustment and increase in the school subquota.

The proposed rule included a prohibition on the retention of school size BFT; however, this final rule provides a modest school fishery based on the adjusted quota described above. The school fishery will be open in the southern area, defined as south of 39° 18′ N. lat. (§ 635.27(a)(2)(ii)) or approximately Great Egg Inlet, NJ, from July 1 to 21, 2006, during which time a retention limit of one school size BFT per day/trip will be in effect. In the northern area, defined as north of 39° 18′ N. lat., a retention limit of one school size BFT per day/trip will be in effect from August 25, 2006, to September 14, 2006. The school retention limit is in addition to the retention limit for large school/small medium BFT (below).

This final rule implements an Angling category retention limit of two BFT (47 inches to less than 73 inches, 119 cm to less than 185 cm) per vessel per day per trip, effective in all areas, for the entire fishing year. The proposed rule included a three-fish retention limit in an attempt to offset the impacts of the lack of subquota for the school size category. During the public comment period, several commenters, including recreational fishing groups, expressed concern that the proposed retention limit could potentially lead to an overharvest of the Angling category quota, or a premature closure prior to the end of the season. Because of the variability of recreational landings, effort, and retention limits, it is not possible for NMFS to accurately project the amount and geographic distribution of recreational landings for the 2006 season. As a result, NMFS determined that a two-fish retention limit was an appropriate retention limit for the Angling category for the 2006 season, since it would provide an ample recreational fishery with a lower potential of overharvesting the quota than the originally proposed three-fish retention limit, and since a modest school size BFT fishery is available. NMFS has the authority to adjust Angling category retention limits inseason if warranted (§ 635.23(b)(3)).

Updated landings estimates for the 2005 fishing year are now available for several BFT fishery categories, which affected quota allocations for 2006 in the General and Longline categories, and are incorporated in this final rule. Total additional landings of 19.5 were reported for the General category, reducing the General category quota to 1163.3 mt, and 16.9 mt for the Longline category, reducing the Longline category quota to 268.2 mt. The Longline category landings occurred in the subcategories as follows: 11.5 mt additional landings in the north (outside of the Northeast Distant area (NED)) and 5.4 mt additional in the south. The final quota available for the 2006 fishing year in each of the Longline subcategories is 70.5 mt in the north (outside the NED),

79.9 mt in the NED, and 117.8 mt in the south.

2006 Final Initial Quota Specifications

In accordance with the 2002 ICCAT quota recommendation, the ICCAT recommendation regarding the dead discard allowance, the 1999 HMS fishery management plan (1999 FMP) percentage shares for each of the domestic categories, and regulations regarding annual adjustments at § 635.27(a)(9)(ii), NMFS establishes final initial quota specifications for the 2006 fishing year as follows: General category — 1163.3 mt; Harpoon category — 124.0 mt; Purse Seine category — 624.1 mt; Angling category — 380.1 mt; Longline category — 268.2 mt; and Trap category — 5.3 mt. Additionally, 282.3 mt are allocated to the Reserve category for inseason adjustments, including potentially providing for a late season General category fishery, or for scientific research collection and potential overharvest in any category except the Purse Seine category.

Based on the above initial specifications, the Angling category quota of 380.1 mt is further subdivided as follows: School BFT — 49.2 mt, with 23.2 mt to the northern area (north of 39E18′ N. lat.) and 26.0 mt to the southern area (south of 39E18′ N. lat.); large school/small medium BFT — 318.4 mt, with 150.3 mt to the northern area and 168.1 mt to the southern area; and large medium/giant BFT — 12.5 mt, with 4.2 mt to the northern area and 8.3 mt to the southern area.

The 2002 ICCAT recommendation includes an annual 25 mt set-aside quota to account for bycatch of BFT related to directed longline fisheries in the NED. This set-aside quota is in addition to the overall incidental longline quota to be subdivided in accordance to the North/South allocation percentages mentioned below. Thus, the Longline category quota of 268.2 mt is subdivided as follows: 70.5 mt to pelagic longline vessels landing BFT north of 31E N. lat. and 117.8 mt to pelagic longline vessels landing BFT south of 31E N. lat., and 79.9 mt to account for bycatch of BFT related to directed pelagic longline fisheries in the NED.

General Category Effort Controls

NMFS implements General category time-period subquotas to increase the likelihood that fishing would continue throughout the entire General category season. The subquotas are consistent with the objectives of the 1999 FMP and are designed to address concerns regarding the allocation of fishing opportunities, to assist with distribution and achievement of optimum yield, to allow for a late season fishery, and to improve market conditions and scientific monitoring.

The regulations implementing the 1999 FMP divide the annual General category quota into three time-period subquotas as follows: 60 percent for June-August, 30 percent for September, and 10 percent for October-January. These percentages would be applied to the adjusted 2006 coastwide quota for the General category of 1163.3 mt, minus 10.0 mt reserved for the New York Bight set-aside fishery. Therefore, of the available 1153.3 mt coastwide quota, 692.0 mt would be available in the period beginning June 1 and ending August 31, 2006; 346.0 mt would be available in the period beginning September 1 and ending September 30, 2006; and 115.3 mt would be available in the period beginning October 1, 2006, and ending January 31, 2007.

In addition to time-period subquotas, NMFS is also implementing General category restricted fishing days (RFDs) to extend the General category fishing season. The RFDs are designed to address the same issues addressed by time-period subquotas and provide additional fine scale inseason flexibility. Although the General category has a relatively large quota for the 2006 fishing year, this permit category has the ability to harvest a great amount of quota in a short period of time, and the RFDs are necessary as a way to manage effort in the last subperiod. NMFS may consider waiving the RFDs if the General category fishery is slow. Therefore, NMFS establishes a series of solid blocks of RFDs for the 2006 fishing year, to extend the General category for as long as possible through the October through January time-period. Persons aboard vessels permitted in the General category are prohibited from fishing, including catch-and-release and tag-and-release, for BFT of all sizes on the following days while the fishery is open: all Saturdays and Sundays from November 18, 2006, through January 31, 2007, and Thursday, November 23, 2006, and Monday, December 25, 2006, inclusive. These RFDs are implemented to improve distribution of fishing opportunities during the late season without increasing BFT mortality.

Because of the large quota available in the General category quota, NMFS has determined that it is appropriate to increase the retention limit for the first subperiod of the General category fishery. Therefore, persons aboard vessels permitted in the General category may retain three large medium or giant BFT per vessel per day/trip from the effective date of this final rule through August 31, 2006. The retention limit may be adjusted with an inseason action to extend through other time periods if warranted under § 635.23(a)(4).

Angling Category Effort Controls

This final rule establishes a two-fish retention limit for large school/small medium size classes for the fishing year. Therefore, persons aboard vessels permitted in the Angling category may retain two large school/small medium BFT per vessel per day/trip from the effective date of this rule through May 31, 2007.

This final rule also implements two regional fisheries for school BFT. NMFS determined that this approach would be effective in providing the limited quota over the distribution of the fishery, particularly to those regions which do not have access to other size classes of BFT. The school fishery will be open in the southern area (south of 39°18′ N lat.) from July 1 to 21, 2006. During this time period, in addition to two large school/small medium BFT, persons aboard vessels permitted in the Angling category and fishing in the southern area may retain one school BFT per vessel per trip. The school fishery will be open in the northern area, (north of 39°18′ N lat.) from August 25 to September 14, 2006. During this time period, in addition to two large school/small medium BFT, persons aboard vessels permitted in the Angling category and fishing in the northern area may retain one school BFT per vessel per trip.

Comments and Responses

Comment 1: Several commenters expressed concern over the accuracy of NMFS' estimates of recreational landings. Several commenters requested an analysis of the effect of measurement procedures in the Large Pelagics Survey (LPS) and a review of the length:weight conversions used by NMFS because they believed that school landings had been overestimated, while some commenters thought that recreational landings had been underestimated. Several commenters stated that the Maryland catch card data should be used in generating recreational estimates, and a commenter noted that Maryland catch card data was consistently lower than LPS estimates for the state of Maryland. Several commenters suggested that catch cards be implemented for all states and a commenter noted that NMFS should invest in improved recreational monitoring because of the numbers of fish that could be landed in the recreational fishery and the potential

impact on the stock. A commenter stated that the current regulations are a disincentive for reporting recreational catches because of the severe restrictions that have been proposed this year.

Response: NMFS collects recreational landings data for HMS through the following three programs: (1) Large Pelagics Survey (LPS), (2) Automated Landing Reporting System (ALRS), and (3) comprehensive tagging of recreationally landed BFT in the states of Maryland and North Carolina. Although none of these programs provide real-time data on a coastwide basis, they provide the best data available for managing the recreational BFT fishery. NMFS considers improving recreational landings data for HMS to be a high priority, and continues to investigate options for improving the reliability and utility of these data. Specifically, NMFS formed an ad hoc committee of NMFS scientists to review the 2002 and 2003 methods and estimates of U.S. recreational fishery landing of BFT, white marlin, and blue marlin reported by NMFS to ICCAT to verify that the reported estimates were the most accurate that NMFS could make with available data. In December 2004, NMFS released a report stating the Committee's findings. NMFS will further review methods of fish measurement and length:weight conversions based on the findings of this report, and consultations with the contractor that performs the LPS.

In a peer-reviewed report released in April 2006, NMFS analyzed the potential impacts of the procedures used to measure BFT lengths in the LPS. This report states that under certain assumptions, the LPS may have overestimated landings from 2002-2004, and an adjustment factor of 4.88 percent could be applied. This final rule implements revised quota specifications for the Angling category as a result of applying this adjustment factor to previous recreational landings estimates. NMFS is conducting a scientific review of length:weight conversions for BFT.

In addition, NMFS is working with the State of Maryland to further refine the use of Maryland catch cards in estimates of coastwide recreational landings. Proposals to implement an Atlantic-wide tail-tag monitoring program remain under limited discussion among coastal states and within NMFS and include issues regarding specifics of logistics, implementation, and establishment of partnerships with coastal states.

Comment 2: NMFS received many comments in response to the proposed recreational minimum size limit of 47 inches (119 cm); a few commenters favored the limit, while most commenters expressed concern or opposed it. Commenters stated the limit would have negative economic impacts for coastal areas such as New Jersey, Long Island, Maryland, Delaware, and the northeast coast including Rhode Island and Massachusetts, and one commenter stated that impacts to New York and New Jersey had been underestimated by NMFS. Commenters stated that fuel prices are expected to be at an unprecedented height this season and that there would be a severe negative impact on an already suffering charter/headboat industry. Commenters stated that there had been an abundance of school-size fish on nearshore fishing grounds in these areas over the last several years which had stimulated the fishery, and that fish above the proposed minimum size limit would be located further offshore and unavailable to fishermen with smaller vessels or would be too expensive to pursue for some individuals, which was unfair. A commenter noted that flyrodders and spinning tackle anglers would not be able to pursue larger fish with their gear. Some commenters stated that fish above the proposed minimum size limit were not available in their region at all. Commenters also stated that catching inshore tuna was thrilling, and that shifting effort to other inshore species was unrealistic because of the need to re-outfit gear and unsatisfying because of the difference in the fishing experience. Several commenters suggested size and/or retention limits other than those that were considered in the proposed rule, ranging from providing some kind of school fishery even if it was for a short period of time to providing a 200-mt quota of school size fish to closing the entire BFT fishery if the school fishery was closed. Many commenters stated that a prohibition on retention of school size fish would increase dead discards and post release mortality because so many school sized fish would be released.

Response: The 2002 ICCAT recommendation that establishes the annual baseline domestic quota for the United States includes a provision designed to limit mortality of school BFT to an average of eight percent of overall quota allocation, calculated on a four-year basis. Estimates of recreational harvest showed that the eight-percent tolerance limit (calculated on an annual basis) had been exceeded by U.S. recreational fisheries in years one and two (2003 and 2004) of the 4-year balance period. In March 2005, NMFS consulted with the HMS Advisory Panel (AP) about the proposed initial BFT specifications for 2005 (70 FR 14630, March 23, 2005) to identify alternatives for the 2005 school BFT fishery. Since NMFS was reviewing methodology for measuring BFT in the Large Pelagics Survey (LPS), which could result in a decrease in previous school BFT harvest estimates, some members of the AP recommended that all of the available school quota be provided for the 2005 fishing year, even though such an approach could severely reduce the amount of quota available for the 2006 fishing year. In February, 2006, estimates of the 2005 school harvest showed that landings were at, or near, the four-year eight percent tolerance limit after only three years.

As indicated in the response to Comment 1 above, NMFS' findings in the report on length measurements will be implemented to provide an increase in the school subquota to 49.2 mt. NMFS analyzed available recreational catch records to identify time periods which would provide some access to all user groups but avoid overharvesting the limited quota available. This final rule provides harvest opportunities for school BFT during the following three-week windows: July 1 to 21, 2006, in the southern area and August 25 to September 14, 2006, in the northern area. The north/south dividing line is at 39°18′ N. lat., located approximately at Great Egg Inlet, NJ. During these windows, the Angling category retention limits for BFT will be one BFT between 27 inches and less than 47 inches (69 cm to less than 119 cm), and two BFT from 47 inches to less than 73 inches (119 cm to less than 185 cm). NMFS is also aware that the nature of BFT recreational fisheries has changed with increased numbers of recreational participants and fishing effort for smaller size BFT. The ICCAT BFT stock assessment is scheduled for June 2006, and negotiations at the annual Fall ICCAT meeting may provide an opportunity to address the changing needs of U.S. recreational fisheries.

Comment 3: Several individuals commented on international aspects of the BFT fishery. Commenters stated that the United States should champion an increase in BFT size limit internationally and make compliance with current recommendations including submission of accurate catch data a higher priority at ICCAT. Commenters stated that fishermen in the western Atlantic were negatively impacted by more liberal regulations in the eastern Atlantic, and that the United States deserves a higher quota since it is a leader in BFT conservation. Another

commenter questioned whether U.S. measures were disadvantaging U.S. fishermen relative to foreign counterparts, which is contrary to ATCA, and stated that over-restricting U.S. fishermen would not benefit international stocks. A commenter asked for an increase in school quota from ICCAT, and several other commenters stated that it would be difficult to request additional BFT quota with the current underharvest in the United States. A commenter stated that additional BFT quota was needed to expand the south Atlantic winter fishery.

Response: This final rule implements the 2002 recommendation from ICCAT regarding the domestic allocation of the United States' internationally provided quota. While NMFS appreciates the comments provided on issues regarding the United States' participation and approach at ICCAT, NMFS recognizes that they recommend changes to the fishery that are beyond the scope of this rulemaking. NMFS recommends that the public provide input on these issues to the ICCAT Advisory Committee, which seeks such input for ICCAT-related activities. The ICCAT Advisory Committee provides public input for ICCAT-related activities.

Comment 4: Several individuals noted concern about the status of BFT stocks and the need for additional conservation. One individual requested a minimum size increase to 74 inches (188 cm) because of the poor status of the BFT stock and another commenter suggested that breeding size fish be excluded from the fishery. A commenter suggested any underharvested allocation of giant size class BFT not be rolled over into the next fishing year as a conservation measure. Another commenter requested an emergency seasonal closure in the Gulf of Mexico to protect spawning BFT and further minimize dead discards. The commenter stated that BFT ''fit the legal definition of endangered under the Endangered Species Act, and are designated critically endangered on the World Conservations Union's Red List.''

Response: NMFS and the U.S. Department of State continue to work through ICCAT to implement an international rebuilding plan, monitor the status of BFT stocks, and adjust the rebuilding plan as necessary. An ICCAT BFT stock assessment is planned for June 2006, and these results will be discussed and rebuilding plan adjustments could be made at the November 2006 ICCAT meeting. In addition, the United States has supported development of an integrated approach to management of eastern and western stocks of BFT, which is actively being discussed at ICCAT.

International management of highly migratory species is complex and difficult, and domestic management including unilateral action by one nation may or may not have the intended results on an international scale. For example, although the United States could adjust the domestic fate of underharvest roll-over for conservation purposes, this approach might not be supported internationally and the underharvest could be re-allocated to another country. In domestic management, NMFS works to balance socio-economic impacts to U.S. fishermen, ecological impacts to BFT stocks and other ecosystem components, and impacts of domestic management on international rebuilding and negotiations.

NMFS prohibits directed fishing for BFT in the Gulf of Mexico to limit mortality on spawning BFT and reduce dead discards. NMFS is considering adjustments to time/area closures for management of HMS under the Draft Consolidated HMS FMP, including an alternative for a BFT spawning area closure in the Gulf of Mexico. The comment period for the proposed rule to implement various FMP measures closed on March 1, 2006, and the final rule is in preparation. The analyses for the time/area closure alternatives can be viewed in the draft Environmental Impact Statement at the following website: *http://www.nmfs.noaa.gov/sfa/hms/hmsdocument_files/FMPs.htm*.

Comment 5: NMFS received several comments regarding the recreational fishery in addition to comments on the school fishery. Many commenters suggested that the proposed limit of three fish per vessel (47 inches to less than 73 inches, 119 cm to less than 185 cm) be reduced in order to extend the fishery throughout the entire year, because fish that size are available off southern New Jersey and Maryland, and that regional fishery could harvest a significant portion of the quota. Many individuals supported the three-fish retention limit, and having the same size and retention limits in effect for both private vessels and charter/headboats. Several commenters stated that many recreational fishermen off Long Island were not familiar with the need for an HMS permit and expressed concern about enforcement, especially with a school prohibition in place. A commenter stated that HMS angling permit holders should be better informed of regulations associated with the permit. A commenter stated that an economic analysis of recreational fisheries is needed.

Response: In the final rule, NMFS reduced the retention limit to two fish (47 inches to less than 73 inches, 119 cm to less than 185 cm) per vessel per day/trip, to ensure that a recreational fishery is available throughout the entire season. NMFS may raise or lower this retention limit during the season, if warranted, based on criteria including the status of landings and availability of BFT on the fishing grounds. An overview of the potential socio-economic impact of the final rule, including a discussion of impacts to the recreational fishery - among all other fishing categories - is included in the EA/RIR/FRFA. A more detailed analysis is included in the 1999 FMP, and the draft EIS for the Draft Consolidated HMS FMP.

The HMS Angling category permit, which applies to fishing vessels pursuing BFT recreationally, has been in effect since 2003 and, prior to that, a recreational tuna permit was required. Recreational permits have been available for purchase on the internet since 1999, along with instructional information regarding permit requirements and other HMS regulations. NMFS also provides outreach mailings to permit holders, press releases, and a FAX information network, among other things, to help keep the public informed about regulatory requirements. NMFS law enforcement works closely with other Federal, state, and local enforcement agencies to educate fishermen and enforce NMFS regulations including prohibitions. However, it is each angler's responsibility to be informed about applicable regulations.

Comment 6: Many commenters characterized differences in the management of recreational and commercial BFT fisheries as unfair. One commenter stated that comparable permitting, reporting, monitoring, and enforcement was needed across all domestic HMS fisheries. Several commenters stated that the recreational fishery has less of an impact on the stocks than the commercial sector because of the amount of quota allocated to the commercial sector, while other commenters said that the recreational fishery has more of an impact because of the greater number of fish that are harvested (per ton) compared to the commercial sector. Another commenter requested that recreational fishermen be allowed to sell their catch.

Response: The Magnuson-Stevens Act, 1999 FMP, and implementing regulations all conserve and manage both commercial and recreational fisheries. This final rule is consistent

with all applicable law including the Magnuson-Stevens Act, the 1999 FMP, and ICCAT's BFT stock rebuilding plan. Through this rule, NMFS manages the commercial and recreational sectors of the BFT fishery under different objectives, as indicated in the 1999 FMP. In addition, NMFS bases different requirements regarding permitting and reporting on the impacts of different fisheries and the objectives under which they are managed. Subject to these objectives, recreational anglers are prohibited from selling BFT. Adjusting the HMS regulations to allow recreational fishermen to sell fish is outside the scope of this rulemaking and contradicts these management objectives. Implementing regulations at § 635.4(d)(2) prohibit the sale of Atlantic HMS caught on board vessels holding an HMS Angling category permit. The General category fishery is an open-access commercial fishery, and permits in this category are available to any fisherman that submits a complete application package.

Comment 7: Many individuals commented on the General category quota and effort controls. Comments on the retention limit ranged from support for the three-fish bag limit to reducing the retention limit to one, and several commenters suggested keeping the three-fish limit for other subperiods except the winter fishery.

Comments on the proposed RFDs ranged from full support to removing them entirely and included increasing NMFS' responsiveness in waiving RFDs during the season and/or waiving RFDs at the beginning of the last subperiod if there is substantial quota left. Several individuals noted that the RFDs could increase economic costs to out-of-town fishermen traveling to the south Atlantic to fish in the winter fishery and the RFDs affect the ability of fishermen to plan in advance, while others noted that the fish landed during the winter fishery brought the best price per pound.

A number of individuals stated that the RFDs contributed to the underharvest in the General category in 2005, and several commenters expressed concern about the amount of underharvest and its potential impacts on negotiations at ICCAT. One commenter stated that underages should be applied to the overall baseline quota rather than rolled into individual quota categories, while another commenter stated that it was appropriate to apply them to specific categories.

An individual asked whether a winter fishery would be guaranteed if catch rates are high in the early season.

Response: This final rule implements the General category effort controls as proposed in the proposed rule, including a three-fish retention limit for the first subperiod. A bag limit of only one BFT, or even two BFT, at the start of the season is determined to be overly restrictive due to the large amount of available quota and the traditional slow catch rate at the opening of the season during the first time subperiod. NMFS may adjust the retention limit for the remaining subperiods if warranted based on the criteria outlined in the HMS regulations at § 635.23(a)(4). This final rule also implements the proposed RFDs on Saturdays and Sundays after November 18, and November 23, and December 25. NMFS modified the RFD schedule based on experience from the 2005 season, and did not include Fridays since it was difficult to waive Fridays on several occasions. NMFS created RFDs to achieve optimum yield, and to extend the late season General category fishery. NMFS recognizes that two-day consecutive RFDs could negatively impact non-resident fishermen. NMFS configured the RFDs is to separate the commercial and recreational fisheries temporally (i.e. General category fishes Monday through Friday, Angling category fishes Saturday and Sunday) to improve conditions on the fishing grounds for both fisheries. NMFS expects market value of BFT to increase as a result of spreading the fishery out over the late season. This could also mitigate any potential extra costs of non-resident fishermen for boat dockage and overnight fees. NMFS recognizes that the weather is unpredictable during this time period of the fishery, and may limit participation without the need for additional RFDs during this part of the season. Should BFT landings and catch rates during the late season fishery merit the waiving of RFDs, under § 635.23(a)(4), NMFS may adjust the daily retention limits with a minimum three day notification to fishermen via a notice in the **Federal Register**. While NMFS created RFDs to provide a reasonable opportunity to harvest the available quota while avoiding overharvesting, the unpredictability of both weather patterns and the availability of fish on the fishing grounds may affect their utility and will be considered during inseason management. NMFS must, under § 635.27(a)(9), roll over- or underharvests into the same quota category for the following year.

NMFS is aware of the interests of Southern area fishermen, particularly off North Carolina, for a fixed General category quota allocation. NMFS is considering several alternatives for restructuring General category subquotas in the Draft Consolidated HMS FMP (70 FR 48804, August 19, 2005) currently under development, to provide a long-term solution to quota allocation for the December to January timeframe.

Comment 8: Several miscellaneous comments were provided on issues that are outside the scope of this rulemaking. Several commenters stated that NMFS should explore ways to harvest unused quota and offered suggestions such as extending the General category fishing year into February, March, or May, increasing the allowable retention limit for the General category from a maximum of three, allowing sale of fish between the sizes of 47 inches and 73 inches (119 cm and 185 cm), and relaxing incidental catch requirements in the longline category. A commenter stated that the trap fishery no longer harvests BFT and that the quota allocation should be shifted to another fishery that has incidental BFT catch such as a midwater trawl fishery. Several commenters suggested adding a division to the recreational fishery in addition to the current north/south line. A commenter requested that NMFS relax the ''tails-on'' requirement.

Several individuals commented on post-release mortality, including dead discards in hand gear and longline fisheries, and suggested alternative approaches to reduce dead discards and eliminate high-grading such as prohibiting recreational catch and release fishing altogether, providing some tolerance to size limits in hand gear fisheries, and increasing incidental catch limits in the pelagic longline fishery. Another commenter supported the ICCAT allocation for incidental catch ''in the vicinity of the management area boundary'' and stated that the availability of this quota has reduced unnecessary dead discards and has resulted in a more accurate depiction of U.S. longline interactions with BFT in the northeast distant area.

Several commenters stated that the purse seine fishery was unfair because such a large quota was restricted to a few individuals. Others commented that this fishery violated the Magnuson-Stevens Act, and that the fishery should carry observers.

Several individuals stated that harvest of forage fish in other fisheries such as the herring midwater trawl fishery was affecting the ability of BFT fishermen to harvest the quota. Several other commenters stated concerns about the switch from a calendar year to a fishing year that is being considered in the consolidated HMS FMP, and how it might affect the winter BFT fishery off the south Atlantic.

Response: This final rule is designed to provide for the fair and efficient harvest of the BFT quota that is allocated to the United States by ICCAT and is consistent with ATCA and the Magnuson-Stevens Act. This action establishes BFT quotas based on a 2002 ICCAT recommendation, which includes a dead discard allowance, subdivided among the U.S. domestic fishing fleet categories according to percentages established by the 1999 FMP and implemented in NMFS regulations at § 635.27(a). The requested actions under this comment are all outside the scope of this action to implement BFT specifications in accordance with the existing 1999 FMP and regulations as the comments propose policy and/or regulatory changes to the 1999 FMP (i.e. category percent quota allocations), implementing regulations, and/or ICCAT recommendations.

The New England Fishery Management Council has the lead for managing the herring fishery, and has recently adopted an amendment to the herring FMP that would implement a seasonal closure to address the potential impacts of herring fishing in certain New England areas on the BFT fishery. This amendment is expected to be implemented in Fall 2006. The comment period for the Draft Consolidated HMS FMP closed on March 1, 2006, and the final regulations to implement various measures in the FMP are being prepared. The comment regarding potential impacts of a shift to calendar year fisheries was received during the comment period for the Draft Consolidated HMS FMP (70 FR 48804, August 19, 2005), and will be addressed in the final rule for that rulemaking.

Classification

These final specifications and effort controls are published under the authority of the Magnuson-Stevens Act and ATCA. The Assistant Administrator for Fisheries (AA) has determined that the regulations contained in this final rule are necessary to implement the recommendations of ICCAT and to manage the domestic Atlantic HMS fisheries, and are consistent with the Magnuson-Stevens Act and National Standards.

The AA finds that pursuant to 5 U.S.C. 553(d)(1), the 30-day delayed effectiveness period is waived for the General category retention limit contained in this action. The 30-day delayed effectiveness period is waived as this action relieves a restriction by increasing the General category retention limit to three large medium or giant BFT per vessel per day per trip. The default retention limit which would become effective when the season opens on June 1, 2006, without this action, is one large medium or giant BFT per vessel per day per trip (§ 635.23(a)(2)). Therefore, this action allows General category permit holders to harvest more BFT than they could under existing regulations.

The AA also finds good cause under U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for the Angling category provisions of this action. In order to finalize the Angling category provisions contained in this final rule, NMFS needed to determine the appropriate Angling quota for school size BFT. A peer reviewed NMFS report analyzing methodologies used to estimate the recreational BFT catch information, and thus determine the appropriate school size BFT quota, was not finalized until April 2006. NMFS determined the limited Angling category quota and retention limits for school size BFT between 27 inches to less than 47 inches (69 cm to less than 119 cm) by applying an adjustment factor to the recreational catch information analyzed in this report. As explained below, the Angling category measures contained in this final rule must be effective by the June 1, 2006 opening of the BFT season to ensure that the school size BFT quota, as determined using the data in the April report, is not exceeded.

Without the waiver for the 30-day delayed effectiveness period, the default Angling category retention limit of one school, large school, or small medium BFT from 27 inches to less than 73 inches (69 cm to less than 185 cm) per day per trip (§ 635.27(b)(2)(ii)) goes into effect when the season opens on June 1, 2006. Preliminary calculations show that only a limited amount of quota is available from the school size class (i.e. BFT from 27 inches to less than 47 inches) in accordance with the quota allocations of the 1999 FMP and international recommendation. By allowing the default Angling category retention limit to be implemented, with the limited amount of school size category BFT quota available for 2006, NMFS increases the risk of harvesting the limited amount of quota in full early in the season, thus precluding anglers in other areas from having a reasonable opportunity to harvest a portion of the school size category BFT quota. This risk is substantiated by successful trip and catch information collected in previous years via the LPS, as well as recreational information collection programs such as, the Maryland Recreational BFT Catch Card Program and the ALRS. Furthermore, an analysis of the historical data show that the two best time periods to make this limited school quota available to the broadest possible number of participants exists in early July and again in late August to early September. The data also show that it is possible to maintain a modest school fishery over these two time periods without exceeding the available quota and international recommendation regarding catches of this small size class of fish. However, to maximize the likelihood of achieving a modest school fishery over the two discreet time periods without exceeding the available quota, it is necessary to restrict access to this size class at other time periods including the opening of the fishery on June 1. The increased retention limit for large school/small medium in part offsets any perceived increase in restrictiveness of increasing the minimum size limit from 27 inches (69 cm) to 47 inches (119 cm).

NMFS has prepared this FRFA to analyze the impacts on small entities of the alternatives for establishing 2006 fishing year BFT quotas for all domestic fishing categories and General and Angling category effort controls.

In the analysis for the FRFA, NMFS assesses the impacts of the various alternatives on the vessels that participate in the BFT fisheries. All of those vessels are considered small entities under the Office of Management and Budget guidelines. NMFS estimated the average impact that the alternative to establish the 2006 BFT quota for all domestic fishing categories would have on individual categories, and the vessels within those categories. As mentioned above, the 2002 ICCAT recommendation increased the BFT quota allocation to 1,489.6 mt, which is distributed to the domestic fishing categories based on the allocation percentages established in the 1999 FMP. This quota allocation includes a set-aside quota of 25 mt to account for incidental catch of BFT related to directed longline swordfish and non-BFT tuna fisheries in the NED. Both these quota modifications were established in the 2003, 2004, and 2005 specifications.

In 2005, the annual gross revenue from the commercial BFT fishery was approximately $4.3 million. The BFT fishery comprises approximately 8,511 vessels that are permitted to land and sell BFT under four commercial BFT quota categories (including charter/headboat vessels). The commercial categories and their 2005 gross revenues are General ($2.9 million), Harpoon ($0.2 million), Purse seine ($0.9 million), and Longline ($0.2 million). NMFS approximates that each vessel within a category will have similar catch and gross revenues to show the

relative impact of the various selected alternatives on vessels.

For the allocation of BFT quota among domestic fishing categories, NMFS analyzed a no action alternative and alternative two (selected alternative) which would implement the 2002 ICCAT recommendation. NMFS considered a third alternative to address issues regarding the changing nature of the BFT fisheries. The third alternative would have allocated the 2002 ICCAT recommendation by providing specific set-asides and allocations for fishing groups which are not currently considered in the 1999 FMP. However, since the third alternative could have resulted in a defacto sub-period quota reallocation, an FMP amendment would be necessary for its implementation, and NMFS did not further analyze it here. Instead, NMFS has proposed changes to BFT subquota allocations, among other things, in the Draft Consolidated HMS FMP (70 FR 48804, August 19, 2005).

As noted above, alternative two would implement the 2002 ICCAT recommendation in accordance with the 1999 FMP and the ATCA. Under the ATCA, the United States is obligated to implement ICCAT-approved quota recommendations. The selected alternative would apply this quota and have positive impacts for fishermen by providing a slight increase in quota. The no action alternative would keep the quota at pre-2002 ICCAT recommendation levels (i.e., 77.6 mt less) and would not be consistent with the purpose and need for this action and the 1999 FMP. Implementing the no action alternative would maintain economic impacts to the United States and to local economies at a distribution and scale similar to 2002 or recent prior years, but would deny fishermen additional fishing opportunities as recommended by the 2002 ICCAT recommendation and as mandated by the ATCA.

The selected alternative would also implement the provision of the 2002 ICCAT recommendation that limits tolerance for school BFT landings to eight percent of the domestic quota, calculated on a 4-year average. Because of high landings in the previous three years, resulting in near full utilization of the 4-year tolerance limit, NMFS is including a 49.2-mt limit on school landings. This limit could have negative economic impacts to fishermen who fish for school BFT, particularly those who rely exclusively on the school size class for BFT harvest. NMFS received several comments during the public comment period expressing this concern. In some regions, access to large school and small medium BFT will mitigate these impacts. In areas where school size BFT are primarily available, NMFS will provide a limited fishery, and fishermen may be able to shift their efforts to other pelagic species (e.g., striped bass or bluefish) to mitigate impacts. NMFS does not know whether shifting effort for either of these user groups will mitigate negative economic impacts.

Two alternatives were considered for effort control using RFDs in the General category. The no action alternative would not implement any RFDs with publication of the initial specifications but rather would use inseason management authority established in the 1999 FMP to implement RFDs during the season, if required. This alternative could be most beneficial during a season of low catch rates and could have positive economic consequences if slow catch rates were to persist during the late season fishery. During a slow season, fishermen could choose when to fish or not based on their own preferences. However, it is impossible to predict in advance whether the season will have low or high catch rates based on availability of BFT, weather, and fisherman behavior, among other things.

The selected alternative would designate RFDs according to a schedule published in the initial BFT specifications. When catch rates were high, NMFS used RFDs (selected alternative) with positive economic consequences by avoiding oversupplying the market and extending the season as late as possible. In addition, NMFS provides better planning opportunities by establishing RFDs at the season onset than implementing RFDs during the season. For example, charter/headboat businesses could book trips and recreational and commercial fishermen could make plans ahead of time rather than waiting until the last minute to see if an RFD is going to be implemented. However, NMFS is aware of public concern that implementing RFDs to extend the late season may have some negative economic impacts to northern area fishermen who choose to travel to the southern area during the late season fishery. Moreover, travel and lodging costs may be greater if the season were extended over a greater period of time under the selected alternative. Those additional costs could be mitigated if the ex-vessel price of BFT stays high. NMFS notes that without RFDs, travel costs may be less because of a shorter season; however, the market could be oversupplied and ex-vessel prices could fall. NMFS believes that extending the season as late as possible and establishing formalized RFDs at the season onset will enhance the likelihood of increasing participation by southern area fishermen, increase access to the fishery over a greater range of the fish migration, provide a reliable mechanism for slowing a fishery that has an ability to generate extremely high catch rates, and provide better than average ex-vessel prices with an overall increase in gross revenues.

A three-fish retention limit (73 inches (185 cm) or above) is the selected alternative for the opening retention limit for the General category, which would be in effect through August 31, 2006. This alternative is expected to result in the most positive socio-economic impacts by providing the best opportunity to harvest the quota while avoiding oversupplying the market, thus maximizing gross revenues. NMFS considered other alternatives including the no action alternative (one BFT 73 inches (185 cm) or above per vessel per day/trip) and an alternative with a retention limit of two BFT (73 inches (185 cm) or above per vessel per day/trip). NMFS expects that both these alternatives are too restrictive given the large amount of quota available for the General category during the 2006 fishing year and could result in the negative economic impact of lower gross revenues. Although early season landings seldom occur at a rate that could oversupply the market, NMFS will monitor landings closely to assure that the increased retention limit does not contribute to an oversupply.

Six alternatives were considered for Angling category retention limits for the 2006 fishing year. The no action alternative was rejected since it would allow substantial landings of school size class BFT. This alternative is contrary to the 1999 FMP, 2002 ICCAT recommendation and the ATCA, given the status of school landings over the first three years of the four-year balance period. The selected alternative is a two BFT (from 47 inches to less than 73 inches (119 cm to less than 185 cm) per vessel per day/trip) retention limit for all sectors of the Angling category for the entire 2006 fishing year. The selected alternative also includes two limited regional fisheries for school BFT, which would allow retention of one school BFT (27 inches to less than 73 inches, 69 cm to less than 185 cm) per vessel per day/trip from July 1 to 21, 2004, in the southern management area and the same limit in the northern areas from August 25 to September 14, 2006. During the public comment period, NMFS received many comments regarding the negative economic impacts of the proposed prohibition on school landings included in the

proposed rule. In response to the comments and results and recommendations of the NMFS Report analyzing length measurement assessment of BFT, NMFS has determined it is possible to provide a modest school fishery based on the adjusted school quota. The selected alternative would reduce negative economic impacts to the recreational fishery by allowing recreational fishermen one school size BFT per day/trip from July 1 to 21, 2006 and again from August 25 to September 14, 2006.

In addition to the selected alternative, two other alternatives were considered that would provide the same retention limits for both private recreational and charter/headboats. One alternative (one BFT from 47 inches to less than 73 inches (119 cm to less than 185 cm) per vessel per day/trip) was not selected because it could unnecessarily restrict the amount of Angling category landings which could result in an underharvest of the BFT quota and a negative economic impact. The other alternative would allow one BFT per person up to a maximum of six BFT per vessel (from 47 inches to less than 73 inches (119 cm to less than 185 cm) and is the alternative most likely to result in an overharvest of the BFT quota with negative economic consequences.

Two other alternatives were considered which provided differential retention limits between the Angling category sectors, all for BFT from 47 inches to less than 73 inches (119 cm to less than 185 cm). The first would provide a private vessel retention limit of two fish per vessel per day/trip and a charter/headboat limit of one fish per person with a maximum of six per vessel per day/trip. The second alternative would provide one fish for each vessel per day/trip for the season, with an increase to three fish per vessel for charter/headboats during June 15, 2006, through July 31, 2006, and the month of September 2006. The second alternative was considered to be unnecessarily restrictive with a greater potential for negative economic impacts associated with not harvesting the entire quota. The first alternative was not selected since it could result in perceived inequities between the two sectors of the Angling category fishery.

This final rule will not result in additional reporting, recordkeeping, compliance, or monitoring requirements for the public. It has also been determined not to duplicate, overlap, or conflict with any other Federal rules.

NMFS prepared an EA for this final rule, and the AA has concluded that there would be no significant impact on the human environment with implementation of this final rule. The EA presents analyses of the anticipated impacts of these regulations and the alternatives considered. A copy of the EA and other analytical documents prepared for this proposed rule, are available from NMFS via the Federal e-Rulemaking Portal (see **ADDRESSES**).

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule contains no new collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

On September 7, 2000, NMFS reinitiated formal consultation for all HMS commercial fisheries under section 7 of the Endangered Species Act. A Biological Opinion (BiOp), issued June 14, 2001, concluded that the continued operation of the purse seine and handgear fisheries may adversely affect, but is not likely to jeopardize, the continued existence of any endangered or threatened species under NMFS jurisdiction. The BiOp also concluded that continued operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of endangered and threatened sea turtle species under NMFS jurisdiction; however, the most recent BiOp for the longline fishery was prepared in 2004 BiOp (see below). NMFS has implemented the reasonable and prudent alternative (RPA) required by the 2001 BiOp.

Based on the management measures in several proposed rules, a new BiOp on the Atlantic pelagic longline fishery was issued on June 1, 2004. The 2004 BiOp found that the continued operation of the fishery was not likely to jeopardize the continued existence of loggerhead, green, hawksbill, Kemp's ridley, or olive ridley sea turtles, but was likely to jeopardize the continued existence of leatherback sea turtles. The 2004 BiOp identified RPAs necessary to avoid jeopardizing leatherbacks, and listed the Reasonable and Prudent Measures (RPMs) and terms and conditions necessary to authorize continued take as part of the revised incidental take statement. On July 6, 2004, NMFS published a final rule (69 FR 40734) implementing the RPA and additional sea turtle bycatch and bycatch mortality mitigation measures for all Atlantic vessels with pelagic longline gear onboard. NMFS is implementing the other RPMs and terms and conditions in compliance with the 2004 BiOp. On August 12, 2004, NMFS published an advance notice of proposed rulemaking (69 FR 49858) to request comments on potential regulatory changes to further reduce bycatch and bycatch mortality of sea turtles, as well as comments on the feasibility of framework mechanisms to address unanticipated increases in sea turtle interactions and mortalities, should they occur. NMFS will undertake additional rulemaking and non-regulatory actions, as required, to implement any management measures that are required under the 2004 BiOp. NMFS does not expect the measures in this action to have adverse impacts on protected species. Although the 2002 ICCAT recommendation increased the BFT quota, which may result in a slight increase in effort, NMFS does not expect this slight increase to alter current fishing patterns. Any option to reduce mortality of school BFT are expected to have negligible ecological impacts and not adversely impact protected species. The measures in this action that allocate additional BFT quota to the Longline category would not alter current impacts on threatened or endangered species because the action would not modify fishing behavior or gear type, nor would it expand fishing effort because BFT are only allowed to be retained incidentally. Thus, NMFS does not expect the measures in this action to change previously analyzed endangered species or marine mammal interaction rates or magnitudes, or substantially alter current fishing practices or bycatch mortality rates.

The area in which this action will occur has been identified as Essential Fish Habitat (EFH) for species managed by the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, the Caribbean Fishery Management Council, and the HMS Management Division of the Office of Sustainable Fisheries at NMFS. NMFS does not anticipate that this action will have any adverse impacts to EFH and, therefore, no consultation is required.

NMFS has determined that the actions in this final rule are consistent to the maximum extent practicable with the enforceable policies of the coastal states in the Atlantic, Gulf of Mexico, and Caribbean that have Federally approved coastal zone management programs under the Coastal Zone Management

Act (CZMA). The rule establishing quota specifications and effort controls was submitted to the responsible state agencies for their review under section 307 of the CZMA on March 23, 2005. As of May 11, 2006, NMFS has received responses from the states of Delaware, Florida, New Hampshire, New Jersey, North Carolina, and Rhode Island, all concurring with NMFS' consistency determination. Because no responses were received from other states, their concurrence is presumed.

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

Dated: May 24, 2006.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. E6–8267 Filed 5–26–06; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 103
Tuesday, May 30, 2006

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. AO–322–A4; FV06–959–1]

Onions Grown in South Texas; Hearing on Proposed Amendment of Marketing Agreement No. 143 and Order No. 959

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of hearing on proposed rulemaking.

SUMMARY: Notice is hereby given of a public hearing to receive evidence on proposed amendments to Marketing Agreement No. 143 and Order No. 959 (order), which regulate the handling of onions grown in South Texas. Four amendments are proposed by the South Texas Onion Committee (committee), which is responsible for local administration of the order. These proposed amendments would: Add authority to the order to establish supplemental assessment rates on specified containers; authorize interest and late payment charges on assessments not paid within a prescribed time period; add authority for the committee to engage in marketing promotion and paid advertising activities; and authorize container marking requirements on containers of onions prior to shipment. Three additional amendments are proposed by the Agricultural Marketing Service (AMS). These amendments would: (1) Require that a continuance referendum be conducted every six years to determine grower support for the order; (2) limit the number of consecutive terms of office a member can serve on the committee; and (3) make such changes as may be necessary to the order to conform with any amendment thereto that may result from the hearing. The proposals are intended to provide the industry with additional tools to aid in the marketing of onions and to improve the operation and administration of the order.

DATES: The hearing will be held on June 15, 2006, in Mission, Texas, beginning at 8:30 a.m. and continuing until completed.

ADDRESSES: The hearing location is: 901 Business Park Drive, Texas Sweet Conference Room, Mission, Texas 78572.

FOR FURTHER INFORMATION CONTACT: Martin Engeler, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Fresno, California 93721; telephone: (559) 487–5110, Fax: (559) 487–5906; or Kathleen M. Finn, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on this proceeding by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

SUPPLEMENTARY INFORMATION: This administrative action is instituted pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) seeks to ensure that within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. Interested persons are invited to present evidence at the hearing on the possible regulatory and informational impacts of the proposals on small businesses.

The amendments proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the proposals.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The hearing is called pursuant to the provisions of the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900).

The proposed amendments were recommended by the committee and initially submitted to USDA on March 15, 2005. Additional information was submitted in October 2005 at the request of USDA and a determination was subsequently made to schedule this matter for hearing.

The proposed amendments to the order recommended by the committee are summarized as follows:

1. Amend § 959.42 of the order to authorize establishment of supplemental assessment rates for onions packed in specified containers.

2. Amend § 959.42 of the order to authorize charging interest and/or late payment fees for assessments not paid within a prescribed time period.

3. Amend § 959.48 of the order to authorize the committee to engage in marketing promotion activities, including paid advertising.

4. Amend § 959.52 of the order to authorize establishment of marking requirements to be placed on containers of onions prior to shipping.

The committee works with USDA in administering the order. These proposals submitted by the committee have not received the approval of USDA. The committee believes that its proposed changes would provide additional tools to assist in the

marketing of South Texas onions and that they would improve the administration and operation of the order.

In addition to the committee proposals, AMS proposes three amendments to the order which are summarized as follows:

5. Amend § 959.84 of the order to require that a continuance referendum be conducted every six years to determine grower support for the order.

6. Amend § 959.23 of the order to limit the number of consecutive terms of office a member can serve on the committee.

7. Make such changes as may be necessary to the order to conform with any amendment thereto that may result from the hearing.

The AMS proposals are intended to increase industry participation and experience with the order, and to provide a means to measure grower support for the order on a periodic basis, consistent with current USDA policy. The final AMS proposal would allow such changes to the order as may be necessary to conform to any amendment that may result from the hearing.

The public hearing is held for the purpose of: (i) Receiving evidence about the economic and marketing conditions which relate to the proposed amendments of the order; (ii) determining whether there is a need for the proposed amendments to the order; and (iii) determining whether the proposed amendments or appropriate modifications thereof will tend to effectuate the declared policy of the Act.

Testimony is invited at the hearing on all the proposals and recommendations contained in this notice, as well as any appropriate modifications or alternatives.

All persons wishing to submit written material as evidence at the hearing should be prepared to submit four copies of such material at the hearing and should have prepared testimony available for presentation at the hearing.

From the time the notice of hearing is issued and until the issuance of a final decision in this proceeding, USDA employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an *ex parte* basis with any person having an interest in the proceeding. The prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture; Office of the Administrator, AMS; Office of the General Counsel, except any designated employee of the General Counsel assigned to represent the committee in this proceeding; and the Fruit and Vegetable Programs, AMS.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Testimony is invited on the following proposals or appropriate alternatives or modifications to such proposals.

Proposals submitted by the South Texas Onion Committee:

Proposal Number 1

3. Revise paragraph (b) of § 959.42 to read as follows:

§ 959.42 Assessments.

* * * * *

(b) Based upon the recommendation of the committee or other available data, the Secretary shall fix a base rate of assessment that handlers shall pay on all onions handled during each fiscal period. Upon recommendation of the committee, the Secretary may also fix supplemental rates on specified containers, including premium containers, identified by the committee and used in the production area.

* * * * *

Proposal Number 2

4. Add a new paragraph (e) to § 959.42 to read as follows:

§ 959.42 Assessments.

* * * * *

(e) If a handler does not pay assessments within the time prescribed by the committee, the assessment may be increased by a late payment charge or an interest rate charge at amounts prescribed by the committee with approval of the Secretary.

Proposal Number 3

5. Revise § 959.48 to read as follows:

§ 959.48 Research and Development.

The committee, with approval of the Secretary, may establish or provide for the establishment of production research, marketing research, development projects, and marketing promotion, including paid advertising, designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of onions. The expenses of such projects shall be paid from funds collected pursuant to § 959.42.

Proposal Number 4

6. In § 959.52, redesignate paragraphs (b)(5) and (b)(6) as paragraphs (b)(6) and (b)(7) and add a new paragraph (b)(5) to read as follows:

§ 959.52 Issuance of Regulations.

* * * * *

(b) * * *

(5) Provide a method, through rules and regulations issued pursuant to this part, for fixing markings on the container or containers, which may be used in the packaging or handling of onions, including appropriate logos or other container markings to identify the contents thereof.

* * * * *

Proposals submitted by USDA:

Proposal Number 5

7. Revise paragraph (a) of § 959.23 to read as follows:

§ 959.23 Term of Office.

(a) The term of office of committee members and their respective alternates shall be for two years and shall begin as of August 1 and end as of July 31. The terms shall be so determined that about one-half of the total committee membership shall terminate each year. Committee members shall not serve more than three consecutive terms. Members who have served for three consecutive terms may not serve as members for at least one year before becoming eligible to serve again. A person who has served less than six consecutive years on the committee may not be nominated to a new two-year term if his or her total consecutive years on the committee at the end of that new term would exceed six years. This limitation does not apply to service on the committee prior to the enactment of this provision and does not apply to alternates.

* * * * *

Proposal Number 6

8. In § 959.84, redesignate paragraph (d) as paragraph (e) and add a new paragraph (d) to read as follows:

§ 959.84 Termination.

* * * * *

(d) The Secretary shall conduct a referendum within six years after the effective date of this paragraph and every sixth year thereafter to ascertain whether continuance is favored by producers.

* * * * *

Proposal Number 7

9. Make such changes as may be necessary to the order to conform with any amendment thereto that may result from the hearing.

Dated: May 23, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–8208 Filed 5–26–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–23709; Airspace Docket No. 06–AAL–02]

Proposed Revision of Class E Airspace; Willow, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Willow, AK. Two Standard Instrument Approach Procedures (SIAPs) along with one Standard Instrument Departure (SID) and a published departure procedure (DP) are being developed for the Willow Airport. Adoption of this proposal would result in the establishment of Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Willow, AK.

DATES: Comments must be received on or before July 14, 2006.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–23709/ Airspace Docket No. 06–AAL–02, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the Office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov*. Internet address: *http://www.alaska.faa.gov/at*.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–23709/Airspace Docket No. 06–AAL–02.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemaking's (NPRM's)

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), which would establish Class E airspace at Willow, AK. The intended effect of this proposal is to create Class E airspace upward from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Willow, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two new SIAPs, one SID and a DP (published in the front of the U.S. Terminal Procedures publication) for the Willow Airport. The new approaches are (1) Area Navigation (Global Positioning System) (RNAV (GPS)) RWY 13, Original and (2) RNAV (GPS) RWY 31, Original. The SID will be named the Big Lake One Departure. The DP is unnamed and will be listed in the front of the U.S. Terminal Procedures publication for Alaska. This action would create Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface near the Willow Airport. The proposed airspace is sufficient in size to contain aircraft executing instrument procedures at the Willow Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and effective September 15, 2005, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore —(1) Is not a ''significant regulatory action'' under Executive

Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Willow Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and effective September 15, 2005, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Willow, AK [New]

Willow Airport, AK
(Lat. 61°45′16″ N., long. 150°03′06″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Willow Airport, and that airspace extending upward from 1,200 feet above the surface within a 72-mile radius of Willow Airport.

* * * * *

Issued in Anchorage, AK, on May 19, 2006.

Anthony M. Wylie,

Area Director, Flight Service Information Office (AK).

[FR Doc. E6–8281 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 153, 157, 375, and 385

[Docket No. RM06–1–000]

Regulations Implementing the Energy Policy Act of 2005: Coordinating the Processing of Federal Authorizations for Applications Under Sections 3 and 7 of the Natural Gas Act and Maintaining a Complete Consolidated Record

Issued May 18, 2006.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 313 of the Energy Policy Act of 2005 (EPAct 2005) [1] amends section 15 of the Natural Gas Act (NGA) [2] to provide the Federal Energy Regulatory Commission (Commission) with additional authority to coordinate the processing of authorizations required under Federal law for proposed natural gas projects subject to NGA sections 3 and 7 and maintain a complete consolidated record of decisions with respect to such Federal authorizations. The Commission proposes to promulgate regulations governing its exercise of this authority, and seeks public comments on the proposed regulations.

DATES: Comments must be filed on or before July 31, 2006.

ADDRESSES: You may submit comments, identified by Docket No. RM06–1–000, by one of the following methods:

- Agency Web site: *http://www.ferc.gov.* Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble. The Commission encourages electronic filing.
- Mail: Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Washington, DC 20426. Please refer to the Comments Procedures Section of the preamble for additional information on how to file paper comments.

FOR FURTHER INFORMATION CONTACT:

Gordon Wagner, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. *gordon.wagner@ferc.gov.* (202) 502–8947.

John Leiss, Office of Energy Projects, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. *john.leiss@ferc.gov.* (202) 502–8058.

William O. Blome, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. *william.blome@ferc.gov.* (202) 502–8462.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Joseph T. Kelliher, Chairman; Nora Mead Brownell, and Suedeen G. Kelly.

1. Section 313 of the Energy Policy Act of 2005 (EPAct 2005) [1] amends section 15 of the Natural Gas Act (NGA) [2] to provide the Federal Energy Regulatory Commission (Commission) with additional authority to (1) coordinate the processing of authorizations required under Federal law for proposed natural gas projects subject to NGA sections 3 and 7 and (2) maintain a complete consolidated record of decisions with respect to such federal authorizations. The Commission proposes to promulgate regulations governing its exercise of this authority and seeks public comments on the proposed regulations.

I. Background and Proposal

2. The Commission authorizes the construction and operation of proposed natural gas projects under NGA sections 3 and 7.[3] However, the Commission

[1] Public Law No. 109–58, 119 Stat. 594 (2005).

[2] 15 U.S.C. 717n (2000).

[3] Under NGA section 7, the Commission has jurisdiction over the transportation or sale of

does not have jurisdiction over every aspect of each natural gas project. Hence, for a natural gas project to go forward, in addition to Commission approval, several different agencies must typically reach favorable findings regarding other aspects of the project.

3. To better coordinate the activities of the separate agencies with varying responsibilities over proposed natural gas projects, EPAct 2005 modifies the Commission's role. Section 313 of EPAct 2005 directs the Commission (1) to establish a schedule for agencies to review requests for Federal authorizations required for a project and (2) to compile a record of each agency's decision, together with the record of the Commission's decision, to serve as a consolidated record for the purpose of appeal or review, including judicial review. This notice of proposed rulemaking (NOPR) seeks comments on procedures to better coordinate the actions of the Commission and other agencies in responding to requests for federal authorizations necessary for natural gas projects and on procedures by which the Commission proposes to maintain a complete consolidated record documenting agencies' responses to requests for federal authorizations.[4]

A. Coordinating Federal Authorizations

4. As modified by section 313(a) of EPAct 2005, NGA section 15(b)(1) designates the Commission as ''the lead agency for the purposes of coordinating all applicable Federal authorizations and for the purposes of complying with the National Environmental Policy Act of 1969'' (NEPA).[5] The new NGA section 15(c)(1) directs the Commission to establish a schedule for issuance of all federal authorizations required for NGA section 3 and 7 natural gas project proposals. In setting a schedule, the Commission is directed both to ''ensure expeditious completion'' of NGA section 3 and 7 proceedings[6] and to ''comply with applicable schedules established by Federal law.''[7]

5. On November 17, 2005, the Commission issued an order initially implementing the authority conferred by EPAct 2005.[8] In that order, the Commission delegated to the Director of the Office of Energy Projects (OEP) the authority to set schedules for agencies to act on requests for federal authorizations necessary for natural gas projects to ensure such requests are processed expeditiously. The Commission stated its intent to initiate a rulemaking to modify its regulations to formally incorporate the authority provided by EPAct 2005 section 313. This NOPR is the start of that process.

6. This proposed rulemaking is aimed at expediting the assessment of NGA section 3 and 7 applications by better coordinating the review undertaken by the various agencies responsible for issuing necessary Federal authorizations.[9] To the extent that the Commission and the other agencies conduct their information collection and analysis concurrently—*i.e.,* in tandem rather than sequentially—applications can be processed more efficiently. To this end, the Commission aims to have all agencies responsible for issuing federal authorizations necessary for natural gas projects initiate consideration of a requested authorization as early as practicable and reach timely final decisions.

7. The Commission aims to facilitate agencies' concurrent assessments of proposed natural gas projects by specifying that an NGA section 3 or 7 application submitted to the Commission will not be deemed ready for processing unless the project sponsor has submitted a request to each agency responsible for issuing a federal authorization required for the proposal. A project sponsor might fulfill this obligation by submitting requests for federal authorizations on the same day that an NGA section 3 or 7 application is submitted to the Commission. But this need not be the case. In practice, if a project sponsor anticipates that another agency's consideration of a request for a necessary federal authorization could extend beyond the time it will take the Commission to act, then the applicant may find it advantageous to submit a request to that agency in advance of filing an application with the Commission; otherwise, authorization to proceed on a project could be delayed pending a decision by the other agency. If, after filing its application with the Commission, an applicant makes material modifications to any request for a Federal authorization from another agency, the applicant should file an update with the Commission, describing its revised request.

8. To assist the Commission in its role as lead agency, the Commission proposes that each agency notify the Commission when it receives a request for a Federal authorization, describe its anticipated processing procedure, and provide the Commission with a copy of any data requests sent to an applicant. When the Commission receives an NGA section 3 or 7 application, it will consider the information that the agencies submit in establishing a schedule for agency decisions on requests for authorizations necessary for a proposed natural gas project. If the Commission elects not to issue a notice specifying a schedule for a particular

natural gas in interstate commerce and the construction, acquisition, operation, and abandonment of facilities to transport natural gas in interstate commerce. Pursuant to Department of Energy (DOE) Delegation Order No. 00–004.00 67 FR 8946 (February 27, 2002), the Secretary of Energy delegated to the Commission the authority under NGA section 3 to approve or disapprove applications for the construction and operation of facilities to import or export natural gas, including liquefied natural gas.

[4] EPAct 2005 section 313 describes federal authorizations necessary for an NGA section 3 or 7 project as ''all decisions made or actions taken by the Commission or by a Federal administrative agency or officer (or State administrative agency or officer acting under delegated Federal authority) with respect to'' granting, denying, or conditioning requests for ''permits, special use authorizations, certifications, opinions, or other approvals.'' The proposed regulations reflect this description. However, the body of this NOPR generally condenses this description to ''authorizations by agencies.''

[5] 42 U.S.C. 4321 *et seq.* (2000). Commission authorization under NGA section 3 or 7 often triggers NEPA, which aspires to ''utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment.'' 42 U.S.C. 4332(2)(A) (2000). EPAct 2005 clarifies that the Commission will lead the collective, multi-agency NEPA compliance effort for natural gas projects subject to NGA section 3 or 7.

[6] NGA section 15(c)(1)(A).

[7] NGA section 15(c)(1)(B).

[8] *Coordinated Processing of NGA Section 3 and 7 Proceedings,* 113 FERC ¶ 61,170 (2005).

[9] In general, any proposal that will require Commission authorization under NGA section 3 or 7 will also require compliance with other Federal requirements. Typically, these additional federal authorizations are considered in the context of the Commission's NEPA review. Federal authorizations for a natural gas project may require compliance with the Clean Water Act, 33 U.S.C. 1251 *et seq.* (2000), and the National Pollution Discharge Elimination System Program, 40 CFR part 122 *et seq.* (2005); the Clean Air Act, 42 U.S.C. 1801 *et seq.* (2000), and the air quality regulations and state implementation plans adopted pursuant to 40 CFR parts 50–99 (2005); the National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.* (2000); the Archeological and Historic Preservation Act of 1974, 16 U.S.C 469–469c (2000); the Coastal Zone Management Act of 1972, 16 U.S.C. 1451 *et seq.* (2000); the Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.* (2000); Executive Order No. 11,988, 42 FR 26,951 (May 24, 1977), requiring Federal agencies to evaluate the potential effects of Federal actions on a floodplain; Executive Order No. 11,990, 42 FR 26,961 (May 24, 1977), requiring an evaluation of the potential effects of construction on wetlands; the Wild and Scenic Rivers Act, 16 U.S.C. 1274 *et seq.* (2000); the National Wilderness Act, 16 U.S.C. 1133 *et seq.* (2000); the National Parks and Recreation Act of 1978, 16 U.S.C. 1 and 230 *et seq.* (2000); the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (2000); the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1407 (2000); the Migratory Bird Treaty Act of 1918, 16 U.S.C. 703–712 (2000); the Rivers and Harbors Act of 1899, 33 U.S.C. 403 (2000); and Executive Order Nos. 10485, 18 FR 5397 (September 3, 1953), and 12038, 43 FR 4957 (February 7, 1978), which require a Presidential Permit for facilities at the border of the United States used to import or export natural gas.

project proposal, then a default deadline of 90 days after the issuance of the Commission's final environmental document on the proposed project, or if no environmental document is issued, no later than 90 days after issuance of a final order, will apply to agencies without applicable schedules established by Federal law.

9. If an agency finds it necessary to request additional information from an applicant, the Commission proposes the agency file a copy of its data request with the Commission. This will enhance the Commission's ability to assess the progress of agency proceedings and inform the Commission of issues raised in those proceedings.

B. Consolidated Record

10. Section 15(d) of the NGA, added by EPAct 2005, states:

> The Commission shall, with the cooperation of Federal and State administrative agencies and officials, maintain a complete consolidated record of all decisions made or actions taken by the Commission or by a Federal administrative agency or officer (or State administrative agency or officer acting under delegated Federal authority) with respect to any Federal authorization.

As provided by EPAct 2005, this consolidated record will serve as the record for (1) appeals or reviews under the Coastal Zone Management Act (CZMA)[10] and (2) judicial review under NGA section 19(d)[11] of decisions of Federal and state administrative agencies and officials.[12]

11. On September 26, 2005, the Commission issued a policy statement to provide guidance in advance of the result of this rulemaking proceeding on the development of the consolidated record and the use of the record for appeals and reviews.[13] In this NOPR, the Commission proposes to fulfill its mandate to maintain a complete consolidated record by requiring that within three days of the effective date of an agency's final decision on a request for a Federal authorization necessary for a proposed natural gas project, the agency must file with the Commission, by electronic means, a copy, or summary, of its decision and an index to documents and materials included in the agency's proceeding.[14] If an agency does not reach a decision by the deadline established by the Commission or Federal law, then within three days of the expiration of the time allotted, the agency must so inform the Commission and file an index to the documents and materials in the agency's inconclusive proceeding.

12. The Commission will maintain the complete consolidated record and it will be the record for appeal or review. In the event of an appeal or review of agency decisions in response to requests for Federal authorizations necessary for a proposed natural gas project, the agency will file with the reviewing authority original, or certified copies of, documents and materials stipulated by the parties and specified by the reviewing agency. This comports with current practice with respect to the appeal of a Commission decision, whereby the Commission files with the United States Court of Appeals its record, or a portion thereof, as agreed upon by the parties and specified by the court.[15]

II. Proposed Regulatory Revisions

A. Coordinating Federal Authorizations

13. The Commission proposes to modify §§ 153.8 and 157.14 of its regulations to specify that an applicant submitting an application for a natural gas project under NGA section 3 or 7 must first submit requests for Federal authorizations necessary for its proposed project, and include an exhibit as part of its application that itemizes each required Federal authorization, the agency responsible for issuing each authorization, the date a request for authorization was submitted to each agency, and the date by which the applicant has requested or expects each authorization be issued.[16] This threshold requirement should enhance the Commission's and agencies' capability to coordinate their consideration of a proposed natural gas project, and thereby avoid what might otherwise be piecemeal and disjointed assessments of jurisdictionally discrete aspects of a single project.

14. In addition to modifying §§ 153.8 and 157.14 of its regulations, the Commission proposes to amend § 375.308, Delegations to the Director of the Office of Energy Projects, by adding a new § 375.308(bb). This additional delegation of authority will permit the Director of OEP to establish schedules, consistent with Federal law, for agencies to complete their necessary analysis and decisionmaking processes and issue decisions on requests for authorizations for natural gas projects.

15. Finally, the Commission proposes to add a new § 153.4 to its regulations, to specify that certain part 157 procedural regulations governing filing an application under NGA section 7 are equally applicable to applications under NGA section 3. Heretofore, applicants have either submitted NGA section 3 application for liquefied natural gas (LNG) projects in conjunction with NGA section 7 applications for interrelated facilities, or else adapted the part 157 procedural filing requirements to submissions under NGA section 3. Hence, the Commission views this new section as clarifying and codifying current practice.

B. Determining a Schedule for Federal Authorizations

16. Initially, upon receiving an application, the Commission issues a notice ''within 10 days of filing'' pursuant to § 157.9 of its regulations.[17]

---

[10] 16 U.S.C. 1451 *et seq.* (2000). In an appeal proceeding, the record may be supplemented as provided by CZMA section 319.

[11] 15 U.S.C. 717r (2000).

[12] If the consolidated record does not contain sufficient information, the United States Court of Appeals may remand the proceeding to the Commission for further development of the record. Section 19(d)(1)(2) of the NGA.

[13] *Consolidated Record in Natural Gas Proceedings,* 112 FERC ¶ 61,334 (2005).

[14] All such submissions are to be in accord with the Commission's regulations, part 385, subpart T, Formal Requirements for Filings in Proceedings Before the Commission. The first page of the copy of, or summary of, the agency's decision, and the first page of the index, must include the designation ''Consolidated Record'' and the Commission's docket number for the proceeding in the upper right corner. In addition, § 388.112 of the Commission's regulations, 18 CFR 388.112 (2005), sets forth procedures to be followed for submissions to the Commission that contain critical energy infrastructure information (CEII) or other information for which protective treatment is requested. CEII, as defined by § 388.113(c) of the regulations, includes information about proposed or existing energy facilities that could be used in planning an attack on critical infrastructure. In compiling the consolidated record for a proceeding, the Commission will maintain a public record of public decisions and actions. To the extent the record of a decision or action by an agency or official contains CEII or other information for which protective treatment is appropriate, this information should be submitted to the Commission in accordance with the procedures described in § 388.112 to ensure the information is not placed in the Commission's public records.

[15] Just as the court need not review the entire record to rule on a specific issue on appeal of a Commission decision, the Commission does not expect the entire contents of the complete consolidated record will be needed for review on appeal of a single agency's decision.

[16] Specifically, for NGA section 3 projects, the Commission proposes to expand the exhibits required under § 153.8 of the regulations by adding a new § 153.8(a)(9), Exhibit H, containing the information described above, and for NGA section 7 projects, the Commission proposes to amend § 157.14 of the regulations by adding an identical requirement in a new § 157.14(a)(12), Exhibit J. An applicant that does not include this proposed new information statement risks rejection of its application as incomplete. In addition, if after filing its application with the Commission, an applicant makes material modifications to any request for a federal authorization from another agency, the applicant should file an update with the Commission, describing its revised request.

[17] Alternatively, the Commission may reject the application in accordance with § 157.8 of its regulations.

The Commission proposes to clarify that the time to issue a notice runs for 10 business days.

17. In issuing a notice of an application, the Commission, or the Director of OEP acting pursuant to delegated authority, may issue a schedule for decisions on outstanding requests for federal authorizations. In the event the Commission or the Director of OEP does not set a schedule for a particular project, the default deadline for decisions by those agencies without applicable schedules established by Federal law will be no later than 90 days after the issuance of the Commission's final environmental document on the proposed project, or if no environmental document is issued, no later than 90 days after issuance of a final order. In some cases—for example, when there is a demonstrated need to have a new natural gas project in service by a certain date—the Commission may set deadlines that are shorter than the maximum times permitted under Federal law. In such cases, the Commission recognizes that compliance with its specified deadlines would be voluntary for agencies with deadlines determined by Federal law.

18. In setting a schedule, the Commission will take the circumstances of other agencies into consideration. To this end, when an agency receives a request for a Federal authorization, proposed new § 385.2013 specifies that within 30 days of receiving the request, the agency must inform the Commission, by electronic means, of the following: (1) Whether the agency deems the application to be ready for processing and, if not, what additional information or materials will be necessary to assess the merits of the request; (2) the time the agency will allot the applicant to provide the necessary additional information or materials; (3) what, if any, studies will be necessary in order to evaluate the request; (4) the anticipated effective date of the agency's decision; and (5) if applicable, the schedule set forth by Federal law for the agency to act. In order to assess the progress of proceedings on requests for Federal authorizations, proposed new § 385.2013 requires that if an agency asks for additional information from an applicant seeking a Federal authorization, then, within three days of submitting its request to the applicant, the agency file a copy of its data request with the Commission.[18]

19. In calculating the time an agency has to act on a request, the Commission will measure time from the day a project sponsor submits a request to an agency. The Commission has previously had cause to consider when a federally specified time period starts to run with respect to a request for a water quality certification under section 401 of the Clean Water Act (CWA),[19] and has concluded that the time allotted by law starts to run on the day the agency receives the project sponsor's request.[20]

20. If an agency determines that an authorization request does not contain information adequate to permit it to reach a reasoned decision, the agency may deny the request, in which case Commission authorization could be denied on the grounds that the project sponsor failed to obtain a Federal authorization necessary for the proposed natural gas project to go forward. However, rather than risk rejection on the grounds an application is deficient, the Commission expects applicants to work to with agencies to cure deficiencies so that a request may be assessed on its merits. To this end, if at any time during the review process an agency believes that an applicant is being uncooperative or failing to respond to reasonable requests for additional information, the agency should promptly notify the Commission. The Commission intends to set deadlines to allow time to ensure that Federal authorizations are issued, conditioned, or denied based on sufficient information and an agency's sound assessment thereof.

21. As indicated above, the Commission intends to adopt a default schedule to complete action on requests for Federal authorizations necessary for a proposed natural gas project. The default deadline will be 90 days after issuance of the Commission's final environmental document in a given proceeding, or if an environmental document is not issued, then 90 days after issuance of the final Commission order. While it is desirable that all agencies act within the same time frame, the Commission cannot effect any change to a schedule established by Federal law.

22. The Commission anticipates this default schedule will prove adequate for most projects. However, the Commission (or the Director of OEP acting under delegated authority) may find that circumstances warrant establishing an individualized schedule for a particular project. For example, when an applicant proposes a project that appears modest, routine, or unremarkable, the Commission may consider establishing an accelerated schedule. It has been the Commission's experience that in the vast majority of natural gas cases, agencies act on requests for Federal authorizations expeditiously. Thus, the Commission expects that in most cases, agencies will complete action on requests for Federal authorizations within the time frame established by the Commission, even if a longer time is allotted to agencies by Federal law.

23. EPAct 2005, in addition to providing the scheduling authority discussed herein, mandates that project sponsors of certain LNG terminal projects commence a prefiling process at least six months before submitting an application to the Commission.[21] The prefiling process encourages early involvement by the public and government agencies, as contemplated by NEPA and the Council on Environmental Quality's regulations. Because the analysis of the potential environmental impacts of natural gas projects tends to take longer than reaching a determination on non-environmental issues (*e.g.,* rates for new services), the Commission will start the environmental review of all natural gas projects as soon as doing so may prove productive. Accordingly, the Commission encourages all natural gas project sponsors to make use of the prefiling process as a means to notify and consult with potentially interested persons, identify those aspects of a

[18] Submissions are to follow the regulatory procedures described in note 14.

[19] 33 U.S.C. 1341 (2000).

[20] Section 4.34(b)(5)(iii) of the Commission's regulations states: ''A certifying agency is deemed to have waived the certification requirements of section 401(a)(1) of the Clean Water Act if the certifying agency has not denied or granted certification by one year after the date the certifying agency received a written request for certification.'' In response to concerns that this manner of marking time might trigger the running of the one year time period by filing a deficient request, the Commission observed that if an agency finds a request to be incomplete—a determination the agency can be expected to make within, at most, several weeks of receipt of a request—the agency then has the discretion to deny the request on the grounds that it is incomplete. *See Regulations Governing Submittal of Proposed Hydropower License Conditions and Other Matters, Order No. 533*, FERC Statutes and Regulations ¶30,921 at 30,135–38, 56 FR 23, 108 (May 20, 1991), 55 FERC ¶61,193 (1991). We note, however, that federal regulations allow the United States Corps of Engineers, Department of the Army (Corps of Engineers) to wait to initiate its review of a request until after a project sponsor obtains certain separate Federal authorizations, *e.g.,* a CWA section 401 water certification (33 CFR 325.2(b)) or a coastal zone management consistency determination (33 CFR 325.2(2)(ii)). If the Corps of Engineers finds it necessary to forego its review of a request until another agency renders it decision, then the schedule established by Federal law for the Corps of Engineers' review does not start to run until that other agency acts.

[21] *See* EPAct 2005 section 311(d) and *Regulations Implementing Energy Policy Act of 2005; Pre-Filing Procedures for Review of LNG Terminals and Other Natural Gas Facilities,* Order No. 665, 113 FERC ¶ 61,015 (final rule) and 112 FERC ¶ 61,232 (2005) (NOPR).

project that merit most attention, winnow the issues in play, and refine the final proposal prior to filing an application with the Commission.

24. This NOPR requires a project sponsor to submit requests for all necessary Federal authorizations no later than the date that an application is filed with the Commission. However, a project sponsor may submit a request sooner, and so trigger the start of the time provided by Federal law for an agency to act. Gas project sponsors have previously made use of the prefiling process to prepare requests for Federal authorizations, and have submitted such requests to agencies before filing an application with the Commission.[22] This approach can compress the time needed to be able to construct and/or operate proposed natural gas facilities, since final Commission approval most often rests on other agencies reaching favorable determinations on requests for federal authorizations.

C. Consolidated Record

25. Section 313 of EPAct 2005 directs the Commission to ''maintain a complete consolidated record of all decisions made or actions taken by the Commission or by a Federal administrative agency or officer (or State administrative agency or officer acting under delegated Federal authority) with respect to any Federal authorization.'' The Commission proposes to do so by revising its part 385 procedural rules to require that each agency or officer responsible for a Federal authorization necessary for a proposed natural gas project file with the Commission a copy of the decision reached or action taken in response to a requested authorization within three days of the effective date of the final decision or action. In addition to filing a copy of the final decision or action, or a summary thereof, the Commission proposes that agencies and officers also file an index which identifies all documents and materials—including pleadings, comments, evidence, exhibits, transcripts of testimony, project alternatives (including alternative routings), studies, and maps—that are relevant to the result of request for a federal authorization. When the end of the time established by the Commission or allotted by federal law expires without a decision or action, within three days thereafter, the agency or officer will file with the Commission an index to the documents and materials submitted in the proceeding.

26. In the proposed new §§ 385.2013 and 385.2014, the Commission requires that agencies submit information—data requests, decisions, actions, indices, etc.—by electronic means, in accordance with § 385.2003(c) of the regulations. The Commission expects that making use of its current eFiling capability will prove more efficient for both those submitting information and for the Commission in processing the information submitted. The Commission urges any agency or officer with a differing expectation to comment. If the Commission finds filing via the Internet will be a hardship, paper filing will be permitted as an alternative.

27. The Commission's own record of its deliberations and decision, in aggregate with copies of the agencies' decisions and indices, will constitute the ''complete consolidated record'' of each proceeding. EPAct 2005 declares that this consolidated record ''shall be the record'' for appeals and reviews of decisions and actions by agencies and officials in response to requests for Federal authorizations necessary for NGA section 3 and 7 natural gas projects. Thus, in appeals and reviews of agencies' and officials' decisions and actions, the reviewing authority is expected to rely on the consolidated record, and stipulations by the parties, to determine which portions of the complete record are relevant to the issues at hand. The reviewing authority may then request documents and materials referenced in an index and the full text of a decision or action. Agencies and officials must stand ready to present requested portions of the consolidated record to the reviewing authority.[23] Accordingly, agencies and officials are to retain all documents and materials relevant to their decisions and actions for at least three years, or until the conclusion of an appeal or review.

III. Environmental Analysis

28. The Commission is required to prepare an EA or EIS for any action that may have a significant adverse effect on the human environment.[24] No environmental consideration is raised by the promulgation of a rule that is procedural in nature or does not substantially change the effect of legislation or regulations being amended.[25] The EPAct 2005 provisions granting the Commission authority to set a schedule for certain agencies to act on requests for Federal authorizations and requiring the Commission to maintain a consolidated record are procedural in nature and do not alter the requirements applicable to natural gas project sponsors or the responsibilities of the agencies involved in authorizing proposed projects. Accordingly, in this case, no environmental consideration is necessary.

IV. Regulatory Flexibility Act Analysis

29. The Regulatory Flexibility Act of 1980 (RFA)[26] generally requires a description and analysis of proposed regulations that will have significant economic impact on a substantial number of small entities. The Commission is not required to make such an analysis if proposed regulations would not have such an effect.[27] Under the industry standards used for purposes of the RFA, a natural gas pipeline company qualifies as ''a small entity'' if it has annual revenues of $6.5 million or less. Most companies regulated by the Commission do not fall within the RFA's definition of a small entity.[28]

30. State agencies acting under federally delegated authority do not fall under the RFA definition of a small entity;[29] they are not described by the subsection pertaining to small businesses,[30] the subsection pertaining to small organizations,[31] or the subsection defining small governmental jurisdictions.[32] RFA section 601(5) defines ''small governmental jurisdiction'' as governments of cities,

[22] Traditionally, the systematic review of the environmental aspects of a proposed natural gas project begins after an application is filed and after the Commission issues a public notice of intent to prepare an environmental assessment (EA) or environmental impact statement (EIS). However, the Commission need not wait for an application to be filed; instead, it can issue a notice of intent during the prefiling process. A project sponsor, in turn, need not wait for the Commission to issue a notice, but may choose to submit requests for authorizations to agencies at any time. In theory, the earlier a review of the environmental aspects of a proposed project can start, the earlier a final decision on a project can be reached—not by curtailing the time allotted to agencies and the Commission to complete their review, but by initiating the analysis sooner. Note that prefiling is mandatory only for certain LNG terminal projects; prefiling is optional for project sponsors of other types of natural gas facilities.

[23] *See Fed. R. App. P.* 17(b)(1) (2005) and 28 U.S.C. 2112(b) (2000). An agency or official must be prepared to transmit to the reviewing authority the original papers, or certified copies, comprising the whole record of its proceeding and any supplemental record.

[24] Order No. 486, *Regulations Implementing NEPA*, 52 FR 47,897 (December 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[25] 18 CFR 380.4(a)(2)(ii) (2005).

[26] 5 U.S.C. 601–612 (2000).

[27] 5 U.S.C. 605(b) (2000).

[28] 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 623 (2000). Section 3 of the Small Business Act defines a ''small-business concern'' as a business which is independently owned and operated and which is not dominant in its field of operation.

[29] 5 U.S.C. 601(6) (2000).

[30] 5 U.S.C. 601(3) (2000).

[31] 5 U.S.C. 601(4) (2000).

[32] 5 U.S.C. 601(5) (2000).

counties, towns, and similar entities with a population of less than fifty thousand. The Commission concludes that no state agencies acting under federally delegated authority meet this definition.

31. The procedural modifications proposed herein should have no significant economic impact on those entities—be they large or small—subject to the Commission's regulatory jurisdiction under NGA section 3 or 7, and no significant economic impact on state agencies. Accordingly, the Commission certifies that this notice's proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities.

V. Information Collection Statement

32. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting, record keeping, and public disclosure requirements (collections of information) imposed by an agency.[33] Therefore, the Commission is providing notice of its proposed information collections to OMB for review in accordance with section 3507(d) of the Paperwork Reduction Act of 1995.[34] Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date.

33. FERC–539, ''Gas Pipeline Certificates: Import/Export Related,'' identifies the Commission's information collections relating to part 153 of its regulations, which apply to facilities to import or export natural gas and for which authorization under section of the NGA is necessary. FERC–537, ''Gas Pipeline Certificates: Construction, Acquisition and Abandonment,'' identifies the Commission's information collections relating to part 157 of its regulations, which apply to natural gas facilities for which authorization under section 7 of the NGA is required. The proposed rulemaking will add two new information collection categories under part 385 of the Commission's regulations: FERC–606, ''Notification of Request for Federal Authorization and Requests for Further Information,'' which requires agencies or officials issuing, conditioning, or denying requests for federal authorizations necessary for a proposed natural gas project to inform the Commission of requests received and additional information, if any, requested of the applicant by the agency or official, and FERC–607, ''Report on Decision or Action on Request for Federal Authorization,'' which requires agencies or officials to submit to the Commission a copy of a decision or action on a request for federal authorization and an accompanying index to the documents and materials relied on in reaching a conclusion.

34. The Commission has attempted to restrict additional reporting requirements to information essential to enable it to meet its EPAct 2005 mandate to establish a schedule for Federal authorizations and to maintain a complete consolidated record with the minimal additional information. The proposed additional reporting requirements are summarized below.

A. Natural Gas Companies

35. Project sponsors will be required to submit an additional exhibit with each application. However, the information in the new exhibit already should be readily available to the project sponsor; the new reporting requirement merely directs that this information be summarized and presented in tabular form.

36. The proposed new § 153.4—which specifies that the procedural filing requirements of part 157 of the Commission's regulations that apply to applications under NGA section 7, also apply to applications under NGA section 3—codifies current practice. As noted, project sponsors submitting NGA section 3 applications have heretofore adhered to the general filing procedures set forth in part 157 of the regulations; thus, the Commission does not view its endorsement of this past practice as imposing any additional reporting burden on NGA section 3 applicants.

B. Federal and State Agencies and Officials Issuing, Conditioning, or Denying Federal Authorizations

37. The proposed new § 385.2013 requires agencies and officials responsible for issuing, conditioning, or denying requests for federal authorizations necessary for a proposed natural gas project to report to the Commission regarding the status of an authorization request. This reporting requirement is intended to allow agencies to assist the Commission to make better informed determinations in establishing due dates for agencies' decisions. The proposed new § 385.2014 requires the same agencies and officials to file with the Commission a copy of, or summary of, a decision and an index to the record of the proceeding.

38. The Commission anticipates that only minor modifications to current practice and procedure will be necessary to satisfy these proposed requirements. The Commission assumes that upon initial receipt of a request for federal authorizations, agencies make an initial assessment to verify whether the request is ready for processing. Proposed § 385.2013 directs the agency or official to forward that initial assessment to the Commission. If in the course of processing a request, an agency or official finds additional information from the applicant is needed, proposed new § 385.2013 directs the agency or official to forward to the Commission a copy of any data request sent to the applicant. With respect to proposed § 385.2014, the Commission assumes that in considering a request for a federal authorization, agencies compile and title the documents and materials they rely upon in reaching a decision. The Commission is not proposing a specific format for an index; thus, an agency's in-house recordkeeping may be presented as an index as long as it functions as a table of contents to the documents and materials. Note that in estimating the burden to provide the information specified in the proposed new §§ 385.2013 and 385.2014, only state agencies acting pursuant to federally delegated authority under the CWA, CAA, CZMA, and NHPA are included.[35]

39. The Commission estimates that on an annual basis the burden to comply with this proposed rule will be as follows:

Data collection	Number of respondents	Number of responses	Hours per response	Total hours
FERC–537	76	815	0.5	408
FERC–539	12	12	0.5	6

[33] 5 CFR 1320.11 (2005).

[34] 44 U.S.C. 3507(d) (2000).

[35] *See* 44 U.S.C. 3502(3)(A) (2000) and 5 CFR 1320.3(c)(4) (2005), stating that ''[a]gency requests for State or local governments to provide the agency with information constitute a collection of information requiring OMB approval, as are agency requests for respondents to provide information to State or local governments,'' and 5 CFR 1320.3(d) (2005), stating that ''[c]ollections of information conducted by State or local agencies under contract or in cooperation with a Federal agency are considered to be sponsored by the Federal agency and need to be approved by OMB.''

Data collection	Number of respondents	Number of responses	Hours per response	Total hours
FERC–606	48	1702	4.4	7489
FERC–607	48	1654	6.3	10,423

Total Annual Hours for Collection: 18,326 hours.

These are mandatory information collection requirements.

Information Collection Costs: Because of the regional differences and the various staffing levels that will be involved in preparing the documentation (legal, technical and support) the Commission is using an hourly rate of $150 to estimate the costs for filing and other administrative processes (reviewing instructions, searching data sources, completing and transmitting the collection of information). The estimated cost is anticipated to be $2,748,900.

Title: FERC–539, FERC–537, FERC–606, and FERC–607.

Action: Proposed Data Collection.

OMB Control No.: To be determined.

Respondents: Natural gas pipeline companies and state agencies and officers.

Frequency of Responses: On occasion.

Necessity of Information: On August 8, 2005, Congress enacted EPAct 2005. Section 313 of EPAct 2005 directs the Commission (1) to establish a schedule for state and federal agencies and officers to act on requests for federal authorizations required for NGA section 3 and 7 gas projects and (2) to maintain a complete consolidated record of all decisions or actions by the Commission and other agencies and officers with respect to federal authorizations. The Commission considers the regulatory revisions proposed herein the minimal necessary to be able to implement this Congressional mandate.

40. The Commission requests comments on the utility of the proposed information collection in meeting the mandates of EPAct 2005, the accuracy of the burden estimates, how the quality, quantity, and clarity of the information to be collected might be enhanced, and any suggested methods for minimizing the respondent's burden and meeting the EPAct 2005 mandate, including the use of automated information techniques. Interested persons may obtain information on the reporting requirements or submit comments by contacting the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 (Attention: Michael Miller, Office of the Executive Director, 202–502–8415 or e-mail *michael.miller@ferc.gov*). Comments may also be sent to the Office of Management and Budget (Attention: Desk Officer for the Federal Energy Regulatory Commission, fax: 202–395–7285 or e-mail: *oira_submission@omb.eop.gov*.)

VI. Public Comments

41. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due by July 31, 2006. Comments must refer to Docket No. RM06–1–000, and must include the commenter's name, the organization represented, if applicable, and address in the comments. Comments may be filed either in electronic or paper format. The Commission encourages electronic filing.

42. Comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. The Commission accepts most standard word processing formats and requests commenters to submit comments in a text-searchable format rather than a scanned image format. Commenters filing electronically do not need to make a paper filing. Commenters unable to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

43. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

44. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

List of Subjects

18 CFR Part 153

Exports, Imports, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By direction of the Commission.

Magalie R. Salas,

Secretary.

In consideration of the foregoing, the Commission proposes to amend parts 153, 157, 375, and 385, Chapter I, Title 18, *Code of Federal Regulations*, as follows:

PART 153—APPLICATIONS FOR AUTHORIZATION TO CONSTRUCT, OPERATE OR MODIFY FACILITIES USED FOR THE EXPORT OR IMPORT OF NATURAL GAS

1. The authority citation for part 153 continues to read as follows:

Authority: 15 U.S.C. 717b, 717o; E.O. 10485, 3 CFR, 1949–1953 Comp., p. 970, as amended by E.O. 12038, 3 CFR, 1978 Comp., p. 136, DOE Delegation Order No. 0204–112, 49 FR 6684 (February 22, 1984).

2. Section 153.4 is added to read as follows:

§ 153.4 General requirements.

The procedures in §§ 157.5, 157.6, 157.8, 157.9, 157.10, 157.11, and 157.12 of this chapter are applicable to applications under section 3 of the Natural Gas Act filed pursuant to subpart B of this part.

3. In § 153.8, paragraph (a)(9) is added to read as follows:

§ 153.8 Required exhibits.

(a) * * *

(9) *Exhibit H.* A statement identifying each Federal authorization that the proposal will require; the Federal

agency or officer, or State agency or officer acting pursuant to delegated Federal authority, which will issue each authorization; the date each request for authorization was submitted; and the date by which final action on each Federal authorization has been requested or is expected.

* * * * *

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

4. The authority citation for part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

5. In § 157.9, the heading is revised, the current single paragraph is designated as paragraph (a), and a new paragraph (b) is added to read as follows:

§ 157.9 Notice of application and notice of schedule for Federal authorizations.

(a) * * *

(b) Notice of each application may itemize each permit, special use authorization, certificate, opinion, or other approval that will be required under Federal law, and may specify a schedule for each Federal agency or officer, or State agency or officer acting pursuant to delegated Federal authority, to act on a request for Federal authorization. Final action on a request for Federal authorization is due no later than 90 days after the issuance of the Commission's final environmental document, or final order if no environmental document is issued, unless a schedule is otherwise established by Federal law or by the Commission.

6. In § 157.14, paragraph (a)(12) is added to read as follows:

§ 157.14 Exhibits.

(a) * * *

(12) *Exhibit J—Federal authorizations.* A statement identifying each Federal authorization that the proposal will require; the Federal agency or officer, or State agency or officer acting pursuant to delegated Federal authority, which will issue each authorization; the date each request for authorization was submitted; and the date by which final action on each Federal authorization has been requested or is expected.

* * * * *

PART 375—THE COMMISSION

7. The authority citation for part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

8. In § 375.308, paragraph (bb) is added to read as follows:

§ 375.308 Delegations to the Director of the Office of Energy Projects.

* * * * *

(bb) Establish a schedule consistent with Federal law for each Federal agency or officer, or State agency or officer acting pursuant to delegated Federal authority, to issue or deny Federal authorizations required for applications under section 3 or 7 of the Natural Gas Act.

PART 385—RULES OF PRACTICE AND PROCEDURE

9. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

10. Section 385.2013 is redesignated as § 385.2015, and new §§ 385.2013 and 385.2014 are added to read as follows:

§ 385.2013 Notification of requests for Federal authorizations and requests for further information.

(a) For each Federal authorization—*i.e.*, permit, special use authorization, certification, concurrence, opinion, or other approval—required under Federal law with respect to an application for authorization under section 3 of the Natural Gas Act or a certificate of public convenience and necessity under section 7 of the Natural Gas Act, each Federal or State agency or officer responsible for a Federal authorization must file with the Commission, by electronic means, within thirty days of the date of receipt of a request for a Federal authorization, notice of the following:

(1) Whether the application is ready for processing, and if not, what additional information or materials will be necessary to assess the merits of the request;

(2) The time the agency or official will allot the applicant to provide the necessary additional information or materials;

(3) What, if any, studies will be necessary in order to evaluate the request;

(4) The anticipated effective date of the agency's or official's decision; and

(5) If applicable, the schedule set by Federal law for the agency or official to act.

(b) A Federal or State agency or officer considering a request for a Federal authorization that submits a data request to an applicant must file a copy of the data request with the Commission, by electronic means, within three days of submitting the request to the applicant.

§ 385.2014 Petitions for appeal or review of Federal authorizations.

(a) For each Federal authorization—*i.e.*, permit, special use authorization, certification, concurrence, opinion, or other approval—required under Federal law with respect to an application for authorization under section 3 of the Natural Gas Act or a certificate of public convenience and necessity under section 7 of the Natural Gas Act, the Federal or State agency or officer responsible for each Federal authorization must file with the Commission, by electronic means, within three days of the effective date of a decision or action on a request for a Federal authorization or the expiration of the time provided to act, the following:

(1) A copy of any final decision or action;

(2) An index identifying all documents and materials—including pleadings, comments, evidence, exhibits, testimony, project alternatives, studies, and maps—relied upon by the agency or official in reaching a decision or action; and

(3) The designation ''Consolidated Record'' and the Commission docket number for the proceeding applicable to the requested Federal authorization.

(b) The agencies' and officers' decisions, actions, and indices, and the Commission's record in each proceeding, constitute the complete consolidated record. The original documents and materials that make up the complete consolidated record must be retained by agencies, officers, and the Commission for at least three years from the effective date of a decision or action or until an appeal or review is concluded.

(c) Upon appeal or review of a Federal authorization, agencies, officers, and the Commission will transmit to the reviewing authority, as requested, documents and materials that constitute the complete consolidated record.

[FR Doc. E6–8205 Filed 5–26–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–134317–05]

RIN 1545–BF16

Guidance Necessary To Facilitate Business Electronic Filing and Burden Reduction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that simplify, clarify, or eliminate reporting burdens. Those regulations also eliminate regulatory impediments to the electronic filing of certain statements that taxpayers are required to include on or with their Federal income tax returns. The text of those regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments, and a request for a public hearing, must be received by August 28, 2006.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–134317–05), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–134317–05), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the IRS Internet site at *http://www.irs.gov/regs* or via the Federal eRulemaking Portal at *http://www.regulations.gov* (indicate IRS and REG–134317–05).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Grid Glyer, (202) 622–7930, concerning submissions of comments, Kelly Banks (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by August 28, 2006. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance and purchase of service to provide information.

The collection of information in these proposed regulations is in each of the corresponding temporary regulations.

The proposed regulations simplify, clarify, or eliminate reporting burdens. These regulations also eliminate regulatory impediments to the electronic filing of certain statements that taxpayers are required to include on or with their Federal income tax returns.

The collection of information is mandatory. The likely respondents are large corporations, many of which will be members of a consolidated group and/or component members of a controlled group.

Estimated total annual reporting burden: 262,500 hours.

Estimated average annual burden hours per respondent: 0.75 hours.

Estimated number of respondents: 350,000.

Estimated frequency of responses: Annually.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background and Explanation of Provisions

Temporary Regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR part 1 to add §§ 1.302–2T, 1.302–4T, 1.331–1T, 1.332–6T, 1.338–10T, 1.351–3T, 1.355–5T, 1.368–3T, 1.381(b)–1T, 1.382–8T, 1.382–11T, 1.1081–11T, 1.1221–2T, 1.1502–13T, 1.1502–31T, 1.1502–32T, 1.1502–33T, 1.1502–35T, 1.1502–76T, 1.1502–95T, 1.1563–1T, 1.1563–3T, and amend part 602 to add § 1.6012–2T. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Special Analysis

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to the following proposed regulations: §§ 1.302–2, 1.302–4, 1.331–1, 1.332–6, 1.351–3, 1.355–5, 1.368–3, 1.381(b)–1, 1.1081–11, 1.1563–1, 1.1563–3, and 1.6012–2. With respect to the collections of information in such regulations, and with respect to the following proposed regulations, §§ 1.338–10, 1.382–8, 1.382–11, 1.1221–2, 1.1502–13, 1.1502–31, 1.1502–32, 1.1502–33, 1.1502–35, 1.1502–76 and 1.1502–95, it is hereby certified that these provisions will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations primarily affect large corporations (which are members of either controlled or consolidated groups) and in the case of all corporations will substantially reduce or eliminate the existing reporting burden. Therefore, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these proposed regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. All comments will be available for public

inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Grid Glyer of the Office of Associate Chief Counsel (Corporate). Other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.302–2 is amended by:

1. Redesignating paragraph (b) as paragraph (b)(1).
2. Revising newly designated paragraph (b)(1).
3. Adding paragraphs (b)(2) and (d).

The additions and revisions read as follows:

§ 1.302–2 Redemptions not taxable as dividends.

[The text of the proposed amendment to § 1.302–2 is the same as the text for § 1.302–2T published elsewhere in this issue of the **Federal Register**].

Par. 3. Section 1.302–4 is amended by revising paragraph (a) and adding paragraph (h) to read as follows:

§ 1.302–4 Termination of shareholder's interest.

[The text of the proposed amendment to § 1.302–4 is the same as the text for § 1.302–4T published elsewhere in this issue of the **Federal Register**].

Par. 4. Section 1.331–1 is amended by revising paragraph (d) and adding paragraph (f) to read as follows:

§ 1.331–1 Corporate liquidations.

[The text of the proposed amendment to § 1.331–1 is the same as the text for § 1.331–1T published elsewhere in this issue of the **Federal Register**].

Par. 5. Section 1.332–6 added to read as follows:

§ 1.332–6 Records to be kept and information to be filed with return.

[The text of the proposed § 1.332–6 is the same as the text for § 1.332–6T published elsewhere in this issue of the **Federal Register**].

Par. 6. Section 1.338–10 is amended by revising paragraph (a)(4)(iii) and adding paragraph (c) to read as follows:

§ 1.338–10 Filing of returns.

[The text of the proposed amendment to § 1.338–10 is the same as the text for § 1.338–10T published elsewhere in this issue of the **Federal Register**].

Par. 7. Section 1.351–3 is added to read as follows:

§ 1.351–3 Records to be kept and information to be filed.

[The text of the proposed § 1.351–3 is the same as the text for § 1.351–3T published elsewhere in this issue of the **Federal Register**].

Par. 8. Section 1.355–5 is added to read as follows:

§ 1.355–5 Records to be kept and information to be filed.

[The text of the proposed § 1.355–5 is the same as the text for § 1.355–5T published elsewhere in this issue of the **Federal Register**].

Par. 9. Section 1.368–3 is added to read as follows:

§ 1.368–3 Records to be kept and information to be filed with returns.

[The text of the proposed § 1.368–3 is the same as the text for § 1.368–3T published elsewhere in this issue of the **Federal Register**].

Par. 10. Section 1.381(b)–1 is amended by revising paragraph (b)(3) and adding paragraph (e) to read as follows:

§ 1.381(b)–1 Operating rules applicable to carryovers in certain corporate acquisitions.

[The text of the proposed amendment to § 1.381(b)–1 is the same as the text for § 1.381(b)–1T published elsewhere in this issue of the **Federal Register**].

Par. 11. Section 1.382–8 is amended by:

1. Revising paragraphs (c)(2) and (h).
2. Redesignating paragraph (e)(4) as paragraph (e)(5).
3. Adding new paragraphs (e)(4) and (j)(4).

The additions and revisions read as follows:

§ 1.382–8 Controlled groups.

[The text of the proposed amendment to § 1.382–8 is the same as the text for § 1.382–8T published elsewhere in this issue of the **Federal Register**].

Par. 12. Section 1.382–11 is added to read as follows:

§ 1.382–11 Reporting requirements.

[The text of the proposed § 1.382–11 is the same as the text for § 1.382–11T published elsewhere in this issue of the **Federal Register**].

Par. 13. Section 1.1081–11 is added to read as follows:

§ 1.1081–11 Records to be kept and information to be filed with returns.

[The text of the proposed § 1.1081–11 is the same as the text for § 1.1081–11T published elsewhere in this issue of the **Federal Register**].

Par. 14. Section 1.1221–2 is amended by revising paragraph (e)(2)(iv) and adding paragraphs (i) through (j) to read as follows:

§ 1.1221–2 Hedging transactions.

[The text of the proposed amendment to § 1.1221–2 is the same as the text for § 1.1221–2T published elsewhere in this issue of the **Federal Register**].

Par. 15. Section 1.1502–13 is amended by revising paragraphs (f)(5)(ii)(E) and (f)(6)(i)(C)(2) and adding paragraph (m) to read as follows:

§ 1.1502–13 Intercompany transactions.

[The text of the proposed amendment to § 1.1502–13 is the same as the text for § 1.1502–13T published elsewhere in this issue of the **Federal Register**].

Par. 16. Section 1.1502–31 is amended by revising paragraph (e)(2) and adding paragraphs (i) through (j) to read as follows:

§ 1.1502–31 Stock basis after a group structure change.

[The text of the proposed amendment to § 1.1502–31 is the same as the text for § 1.1502–31T published elsewhere in this issue of the **Federal Register**].

Par. 17. Section 1.1502–32 is amended by revising paragraph (b)(4)(iv) and adding paragraphs (i) through (j) as follows:

§ 1.1502–32 Investment adjustments.

[The text of the proposed amendment to § 1.1502–32 is the same as the text for § 1.1502–32T published elsewhere in this issue of the **Federal Register**].

Par. 18. Section 1.1502–33 is amended by revising paragraph (d)(5)(i)(D) and adding paragraph (k) to read as follows:

§ 1.1502–33 Earnings and profits.

[The text of the proposed amendment to § 1.1502–33 is the same as the text for § 1.1502–33T published elsewhere in this issue of the **Federal Register**].

Par. 19. Section 1.1502–35 is amended by revising paragraph (c)(4)(i) and adding paragraph (k) to read as follows:

§ 1.1502–35 Transfers of subsidiary stock and deconsolidations of subsidiaries.

[The text of the proposed amendment to § 1.1502–35 is the same as the text of § 1.1502–35T published elsewhere in this issue of the **Federal Register**].

Par. 20. Section 1.1502–76 is amended by revising paragraph (b)(2)(ii)(D) and adding paragraph (d) to read as follows:

§ 1.1502–76 Taxable year of members of group.

[The text of the proposed amendment to § 1.1502–76 is the same as the text for § 1.1502–76T published elsewhere in this issue of the **Federal Register**].

Par. 21. Section 1.1502–95 is amended by revising paragraphs (e)(8) and (f) and adding paragraph (g) to read as follows:

§ 1.1502–95 Rules on ceasing to be a member of a consolidated group (or loss subgroup).

[The text of the proposed amendment to § 1.1502–95 is the same as the text for § 1.1502–95T published elsewhere in this issue of the **Federal Register**].

Par. 22. Section 1.1563–1 is amended by revising paragraph (c)(2) and adding paragraph (e) to read as follows:

§ 1.1563–1 Definition of controlled group of corporations and component members.

[The text of the proposed amendment to § 1.1563–1 is the same as the text for § 1.1563–1T published elsewhere in this issue of the **Federal Register**].

Par. 23. Section 1.1563–3 is amended by revising paragraph (d)(2)(iv) and adding paragraph (e) to read as follows:

§ 1.1563–3 Rules for determining stock ownership.

[The text of the proposed amendment to § 1.1563–3 is the same as the text for § 1.1563–3T published elsewhere in this issue of the **Federal Register**].

Par. 24. Section 1.6012–2 is amended by revising paragraph (c) and adding paragraph (k) to read as follows:

§ 1.6012–2 Corporations required to make returns of income.

[The text of the proposed section § 1.6012–2 is the same as the text for § 1.6012–2T published elsewhere in this issue of the **Federal Register**].

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 06–4872 Filed 5–26–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–06–056]

RIN 1625–AA00

Safety Zone; Fireworks Display, Chesapeake Bay, Tred Avon River, Oxford, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone upon certain waters of the Tred Avon River during a fireworks display. This action is necessary to provide for the safety of life on navigable waters during a fireworks display launched from a barge, located between Bellevue, Maryland and Oxford, Maryland. This action will restrict vessel traffic in a portion of the Tred Avon River.

DATES: Comments and related material must reach the Coast Guard on or before June 29, 2006.

ADDRESSES: You may mail comments and related material to Commander, U.S. Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Building 70, Waterways Management Division, Baltimore, Maryland 21226–1791. Coast Guard Sector Baltimore, Waterways Management Division, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander, U.S. Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Building 70, Waterways Management Division, Baltimore, Maryland 21226–1791, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald L. Houck, at Coast Guard Sector Baltimore, Waterways Management Division, at telephone number (410) 576–2674 or (410) 576–2693.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–06–056), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard Sector Baltimore, Waterways Management Division, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Each year, thousands of spectators attend an outdoor Independence Day fireworks display discharged from vessels or floating platforms on or near the navigable waters of the United States. Accidental discharge of fireworks and falling hot embers are a safety concern during such events. The Coast Guard has the authority to impose appropriate controls on marine events that may pose a threat to persons, vessels and facilities under its jurisdiction. The Coast Guard proposes to establish a safety zone that will be enforced during a fireworks display held over the Tred Avon River, a tributary of the Chesapeake Bay. The proposed rule is needed to control movement through a portion of the waterway that is heavily populated by vessels seeking to view the fireworks display and participate in the Independence Day celebration.

Discussion of Proposed Rule

On July 2, 2006, the Tred Avon Yacht Club will sponsor a fireworks display launched from a barge located on the Tred Avon River, near Oxford, Maryland. The planned event includes a thirty-five minute aerial fireworks display beginning at dusk. A rain date is being proposed for July 3, 2006. A large fleet of spectator vessels is anticipated for this event. Due to the need for vessel control during the fireworks display, vessel traffic will be restricted to provide for the safety of spectators and transiting vessels.

The purpose of this rule is to promote maritime safety, and to protect the environment and mariners transiting the area from the potential hazards due to falling embers or other debris associated

with a fireworks display from a barge. This rule proposes to establish a safety zone on the waters of the Tred Avon River, within a radius of 150 yards around a fireworks barge, which will be located at position latitude 38°41′48″ N, longitude 076°10′38″ W. The Coast Guard anticipates a large recreational boating fleet during this event. The rule will impact the movement of all vessels operating in a specified area of the Tred Avon River. Interference with normal port operations will be kept to the minimum considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled event.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities: The owners or operators of vessels intending to operate, remain or anchor within certain waters of the Tred Avon River, within a radius of 150 yards around a fireworks barge located at position latitude 38°41′48″ N, longitude 076°10′38″ W , from 7:30 p.m. to 10:30 p.m. on July 2, 2006, or if warranted due to inclement weather, on July 3, 2006. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for three hours, commercial vessel traffic in this area is very limited, vessels not constrained by their draft may proceed safely around the safety zone, and before the effective period, we will issue maritime advisories widely available to users of the river.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Coast Guard Sector Baltimore, Waterways Management Division, at telephone number (410) 576–2674. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are

technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule establishes a safety zone.

A preliminary ''Environmental Analysis Check List'' is available in the docket where indicated under **ADDRESSES.** Comments on this section will be considered before we make the final decision on whether this rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add temporary § 165.T05–056 to read as follows:

§ 165.T05–056 Safety zone; Fireworks Display, Chesapeake Bay, Tred Avon River, Oxford, MD.

(a) *Location.* The following area is a safety zone: All waters of the Tred Avon River near Oxford, Maryland, surface to bottom, within a radius of 150 yards around a fireworks barge which will be located at position latitude 38°41′48″ N, longitude 076°10′38″ W. All coordinates reference Datum NAD 1983.

(b) *Definition.* The Captain of the Port Baltimore means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(c) *Regulations.* The general regulations governing safety zones, found in Sec. 165.23, apply to the safety zone described in paragraph (a) of this section.

(1) All vessels and persons are prohibited from entering this zone, except as authorized by the Captain of the Port, Baltimore, Maryland.

(2) Persons or vessels requiring entry into or passage within the zone must request authorization from the Captain of the Port or his designated representative by telephone at (410) 576–2693 or by marine band radio on VHF channel 16 (156.8 MHz).

(3) All Coast Guard vessels enforcing this safety zone can be contacted on marine band radio VHF channel 16 (156.8 MHz).

(4) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State and local agencies.

(e) *Effective period.* This section is effective from 7:30 p.m. to 10:30 p.m. on July 2, 2006, and if warranted due to inclement weather, from 7:30 p.m. to 10:30 p.m. on July 3, 2006.

Dated: May 19, 2006.

Curtis A. Springer,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. E6–8294 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 723

[EPA–HQ–OPPT–2002–0051; FRL–8069–4]

RIN 2070–AD58

Premanufacture Notification Exemption for Polymers; Amendment of Polymer Exemption Rule to Exclude Certain Perfluorinated Polymers; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of comment period.

SUMMARY: This document reopens the public comment period originally established for the proposed rule issued in the **Federal Register** on March 7, 2006 (71 FR 11484) (FRL–7735–5). In that document, EPA proposed to amend the polymer exemption rule which provides an exemption from the premanufacture notification (PMN) requirements of the Toxic Substances Control Act (TSCA), to exclude from eligibility polymers containing as an integral part of their composition, except as impurities, certain perfluoroalkyl moieties consisting of a CF3- or longer chain length.

DATES: Comments must be received on or before July 31, 2006.

ADDRESSES: EPA has established a docket for this action under Docket identification (ID) number EPA–HQ–OPPT–2002–0051. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy form, at the OPPT Docket, EPA Docket Center (EPA/DC), EPA West, Rm. B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Colby Lintner, Regulatory Coordinator,

Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Geraldine Hilton, Chemical Control Divison (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8986; e-mail address: *hilton.geraldine@epa.gov*.

SUPPLEMENTARY INFORMATION: This document reopens the public comment period established in the **Federal Register** issued on March 7, 2006 (71 FR 11484). In that document, EPA sought comments on a proposed rule to exclude certain perfluorinated polymers from the polymer exemption rule. EPA is hereby reopening the comment period, which closed on May 8, 2006, to July 31, 2006. EPA has decided to reopen the comment period in response to several requests that additional time is need to adequately compile information, coordinate views among like-minded stakeholders, and submit meaningful comments.

List of Subjects in 40 CFR Part 723

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: May 18, 2006.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. E6–8245 Filed 5–26–06; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1310

RIN 0970–AC26

Head Start Program

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), DHHS.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice of proposed rulemaking authorizes approval of annual waivers, under certain circumstances, from two provisions in the current Head Start transportation regulation (45 CFR part 1310): The requirement that each child be seated in a child restraint system while the vehicle is in motion, and the requirement that each bus have at least one bus monitor on board at all times. Waivers would be granted when the Head Start or Early Head Start grantee demonstrates that compliance with the requirement(s) for which the waiver is being sought will result in a significant disruption to the Head Start program or the Early Head Start program and that waiving the requirement(s) is in the best interest of the children involved. The proposed rules also would revise the definition of child restraint system in the regulation. The proposed change in the definition would remove the reference to weight which now conflicts with Federal Motor Vehicle Safety Standards.

The regulation also is being amended to reflect new effective dates for §§ 1310.12(a) and 1310.22(a) on the required use of school buses or allowable alternate vehicles and the required availability of such vehicles adapted for use of children with disabilities, as the result of enactment of Section 224 of Public Law 109–149.

DATES: In order to be considered, comments on this proposed rule must be received by July 31, 2006.

ADDRESSES: Please address comments to the Associate Commissioner, Head Start Bureau, Administration for Children, Youth and Families, Portals, Eighth Floor, 1250 Maryland Avenue SW., Washington, DC 20024. A copy of this regulation may be downloaded from *http://www.regulation.gov.* In addition, you may also transmit written comments electronically via the Internet at *http://www.regulations.acf.hhs.gov.* Comments will be available for public inspection at the Department's offices in Portals, 8th Floor, 1250 Maryland Ave., SW., Washington, DC 20024, Monday through Friday 8:30 to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Craig Turner, Head Start Bureau, (202) 205–8236. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m. eastern time.

SUPPLEMENTARY INFORMATION:

Background

Waiver Authority

On January 18, 2001, final Head Start transportation regulations were published in the **Federal Register** (66 FR 5296). These regulations, found at 45 CFR part 1310, contain several requirements designed to assure that Head Start children are safely transported to and from Head Start centers and apply to all Head Start and Early Head Start programs that provide transportation either directly, using program owned or leased vehicles, or through arrangements with private or public transportation providers, including local education agencies (LEAs). Different effective dates were included in the regulation for different requirements. The requirements that each vehicle used to transport children be equipped for use of child restraint systems and have a bus monitor was scheduled to become effective January 18, 2004.

On January 16, 2004, the Department published an Interim Final Rule to amend the Head Start transportation regulation (69 FR 2513). The Interim Final Rule was published to extend the effective date of the child safety restraint and bus monitor requirements until June 21, 2004 and to allow grantees an opportunity to request an additional extension of the effective date up to January 20, 2006, if they could demonstrate that this extension would be in the best interest of the children served.

Through the authority provided in the Interim Final Rule, the Department granted over 500 extensions to the effective date of the regulation to January 20, 2006. Many of the grantees who applied for and received extensions described plans to come into compliance with the requirements by the January 20, 2006 deadline. Some of these grantees were in the process of purchasing child restraint systems which had been recently approved by the National Highway Traffic Safety Administration (NHTSA) for use in school buses without costly retrofitting. Others were in the process of hiring and training monitors, and purchasing compliant vehicles. However, some grantees, particularly those grantees participating in coordinated transportation arrangements, expressed no alternative but to discontinue transportation services to Head Start children.

On December 30, 2005, the President signed Public Law 109–149 that included in Section 223 a provision that authorizes the Secretary of Health and Human Services to waive the requirements of regulations promulgated under the Head Start Act (42 U.S.C. 9831 *et seq.*), pertaining to child restraint systems or vehicle monitors if the Head Start or Early Head Start agency can demonstrate that compliance with such requirements will result in a significant disruption to the

program and that waiving the requirement is in the best interest of the children involved. This waiver authority extends until September 30, 2006, or the date of the enactment of a statute that authorizes appropriations for fiscal year 2006 to carry out the Head Start Act, whichever date is earlier.

These actions, the Interim Final Rule and the temporary extension provided by Public Law 109–149, were necessary to address the significant impact these transportation requirements were having on Head Start programs. Many Head Start agencies are local school systems that have agreed to provide free transportation services to enrolled Head Start children. Other agencies have arranged coordinated transportation services with local school districts, often receiving these services at no cost or reduced cost to the program. Integrating Head Start children into regular bus routes is often the most efficient and effective way to transport young children who may be widely dispersed over an agency's service area. In many of these collaborative arrangements Head Start children are picked up along with K–12 school children that live in the same neighborhood. In these situations, Head Start children often represent no more than a few pupils on a large school bus. The need to provide child restraint systems for these few Head Start children, the potential reduction in seating capacity related to the use of these systems, and multiple daily bus runs all combine to create significant obstacles for school systems and other agencies. The Department was more focused on those programs with dedicated buses; that is buses on which only Head Start children are transported.

Of potentially greater impact is the requirement that each such bus have at least one monitor, irrespective of how few Head Start children might be on the bus. This could be prohibitively expensive if a monitor's salary is amortized among, for example, only three or four children. While many would support the argument that having a monitor on a bus filled with preschool age children would be appropriate, it is less clear that providing a monitor for three preschool age children is either appropriate or cost effective. In fact, the final rule published in 2001 included a discussion of alternatives for reducing the expense of providing monitors by having individual volunteers fill the role or by assigning bus monitor duties to individuals who are employed most of the time in filling other roles in the Head Start program. However, these alternatives are not practical when an agency other than a grantee is operating the bus.

These rules propose a permanent solution to the issues addressed temporarily by the Interim Final Rule and Public Law 109–149.

Child Restraint System Definition and Applicability

The 2001 Head Start transportation regulations also included a provision requiring that on vehicles equipped with such devices, each child weighing 50 pounds or less must be seated in a child safety restraint system, appropriate to the height and weight of the child. The Department defined child restraint system at 45 CFR 1310.3 to include devices for restraining, seating, or positioning children weighing 50 pounds or less which meet the requirements of the Federal Motor Vehicle Safety Standard 213, 49 CFR 571.213, issued by the National Highway Traffic Safety Administration (NHTSA). At the time, the Federal Motor Vehicle Safety Standard 213 (FMVSS) applied to systems for children weighing 50 pounds or less. In 2003, NHTSA amended FMVSS 213, establishing the current standard that applies to systems for children weighing 65 pounds (30 kilograms) or under. An additional increase of the weight has been proposed by NHTSA (see 70 FR 51720, August 31, 2005) for children weighing 80 pounds or under. We are proposing to change the definition of child restraint system in the regulations and the requirement for use of child restraint systems to reflect current NHTSA regulations with flexibility to address any future changes in the weight range covered by the NHTSA regulation.

The proposed revision of the definition of child restraint system at 45 CFR 1310.2 will cover two categories of devices. The first category includes devices which meet the current definition of child restraint system, under the NHTSA regulation at 49 CFR 571.213. The second category in the proposed Head Start definition would include devices designed to restrain, seat, or position children, other than a Type I seat belt as defined at 49 CFR 571.209, for children not in the weight category currently established by 49 CFR 571.213. The second category would cover devices for children weighing more than the maximum weight covered under FMVSS 213. ACF believes that the vast majority of children enrolled in Head Start and Early Head Start are in the weight category covered by the existing NHTSA standard. According to Centers for Disease Control and Prevention data, 4.5 year old males in the 95th percentile for weight are less than 50 pounds. But because it is possible that children receiving Head Start or Early Head Start transportation services will weigh more than 65 pounds, the definition includes another category of devices suitable to the needs of these children.

Provisions of the Regulation

Section 1310.2—Waiver Authority and Effective Dates

We propose to revise the waiver authority found in § 1310.2(c) to expand the definition of ''good cause.'' Under the proposal, effective October 1, 2006, ''good cause'' for a waiver would exist when adherence to a requirement of the Head Start transportation regulation would create a safety hazard in the circumstances faced by the agency, or when compliance with requirements related to child restraint systems (§§ 1310.11 and 1310.15(a)) or the use of bus monitors (§ 1310.12(a)) would result in a significant disruption to the program and the grantee can demonstrate that waiving such requirements would be in the best interest of the children involved.

The waiver authority currently provided in the regulation only applies when adherence to a requirement of this part would itself create a safety hazard in the circumstances faced by the agency. It further states that ''Under no circumstance will the cost of complying with one or more of the specific requirements of this part constitute good cause.'' The Department determined that the limited waiver authority provided under the regulation could not be applied to situations where agencies were coordinating services with local school districts and other transportation providers. The situations described by grantees in both their extension and waiver requests, while including collaboration and coordination with school systems as an important rationale, are based on cost, and therefore not covered under the current authority. The Department believes that expanding the definition of ''good cause'' is the best long-term solution to the concerns expressed by Congress, Head Start agencies, school districts, transit providers and the public in order to serve the best interests of children.

Paragraph (b) would be revised to provide an effective date of October 1, 2006 for changes made by this proposed regulation.

The Department also is proposing changing the effective date of §§ 1310.12(a) and 1310.22(a) from January 18, 2006 to June 30, 2006. The change is being made to reflect the

enactment of section 224 of Public Law 109–149, which provides § 1310.12(a) of title 45 of the Code of Federal Regulations (October 1, 2004) shall not be effective until June 30, 2006, or 60 days after the date of the enactment of a statute that authorizes appropriations for fiscal year 2006 to carry out the Head Start Act, whichever date is earlier. Congress has not passed legislation authorizing a fiscal year 2006 appropriation for the Head Start Act, so the Department is anticipating that § 1310.12(a) will become effective on June 30, 2006. If Congress acts before June 30, 2006, the final regulations will establish the date of enactment as the effective date for § 1310.12(a). The effective date for § 1310.22(a) also is being changed because it applies to the school buses and allowable alternative vehicles that will be required to be used under § 1310.12(a) and now is also listed as being effective on January 18, 2006. The text of §§ 1310.12(a) and 1310.22(a) are also being amended to reflect the proposed effective date of June 30, 2006.

Section 1310.12 Required Use of School Buses or Allowable Alternate Vehicles and Section 1310.22 Children With Disabilities

As indicated, we are proposing to amend paragraph (a) of §§ 1310.12 and 1310.22 to replace the January 18, 2006 effective date with June 30, 2006. These changes are needed to reflect the delayed effective date provided by section 224 of Public Law 109–149.

Definition and Requirements for Use of Child Restraint Systems

We also propose to update and modify the definition and requirement for use of child restraint systems.

Section 1310.3—Definitions

Under § 1310.3, child restraint systems are currently defined as any device designed to restrain, seat, or position children who weigh 50 pounds or less which meets the requirements of Federal Motor Vehicle Safety Standard No. 213, Child Restraint Systems, 49 CFR 571.213. NHTSA raised the weight threshold required for approved restraint systems and is considering raising it yet again. In addition, discussions with NHTSA indicate it would be advisable to include a formal reference to the exclusion of Type I lap belts for small children. Therefore, we propose to update the definition by removing the weight requirement in order to stay current with FMVSS 49 CFR 571.213, and to exclude Type I lap belts as defined at 49 CFR 571.209. The new definition would read, ''Child Restraint System means any device designed to restrain, seat, or position children that meets the current requirements of Federal Motor Vehicle Safety Standard No. 213, Child Restraint Systems, 49 CFR 571.213, for children in the weight category established under the regulation, or any device designed to restrain, seat, or position children, other than a Type I seat belt as defined at 49 CFR 571.209, for children not in the weight category currently established by 49 CFR 571.213.''

Section 1310.15—Operation of Vehicles

Section 1310.15(a) of the regulation currently states that each agency providing transportation services must ensure that, ''On a vehicle equipped for use of such devices, any child weighing 50 pounds or less is seated in a child restraint system appropriate to the height and weight of the child while the vehicle is in motion.'' As discussed earlier, the definition of the child restraint system must be updated to reflect FMVSS standards. We propose to remove the poundage reference to include those few Head Start and Early Head Start children who are over 50 pounds in the requirement for the use of child restraint systems to coincide with the change in the definition.

We also propose to revise the language to clarify that the regulation applies only to Head Start and Early Head Start enrolled children. In coordinated transportation arrangements, questions have been raised regarding the applicability of this requirement to other children on the bus.

Under the proposal, the language would require that any child enrolled in a Head Start or Early Head Start program is seated in a child restraint system appropriate to the child's height and weight while the vehicle is in motion.

Paperwork Reduction Act

This notice of proposed rulemaking contains information collection requirements in § 1310.2. This summary includes the estimated costs and assumptions for the paperwork requirements related to this proposed rule. A copy of this information collection request is available on our Web site at *http://regulation.acf.hhs.gov* and also can be obtained in hardcopy by contacting Craig Turner at the Head Start Bureau, (202) 205–8236. These paperwork requirements have been submitted to the Office of Management and Budget for review under number 0970–0260 as required by 44 U.S.C. 3507(a)(1)(c) of the Paperwork Reduction Act of 1995, as amended. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number.

The Head Start Bureau estimates that the proposed rule would create 275 burden hours annually. Table 1 summarizes burden hours by grantee. We estimate 1 hour of paperwork burden for each Head Start grantee requesting a transportation waiver. The waiver request would include basic information to identify the grantee, the nature of the transportation services provided and the children affected and a justification for the waiver. We estimate receiving no more than 275 requests resulting in a total burden of 275 hours. We will utilize a Web-based waiver request process, so expect no additional overhead in the management of the relatively small number of applications anticipated.

TABLE 1.—TOTAL BURDEN HOURS OF PROPOSED RULE

[Summary of All Burden Hours, by Provision, for Grantees]

Provision	Annualized burden hours
1310.2	275
Total	275

New information collection requirements are imposed by § 1310.2 of these regulations. Section 1310.2 authorizes the responsible HHS official to approve waiver requests related to the use of child restraint systems and bus monitors when the grantee provides information documenting that such a waiver will result in a significant disruption to the program and the agency demonstrates that waiving such requirements is in the best interest of the children involved, as set out in guidance provided by HHS.

HHS is working with OMB to obtain approval of the associated burden in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) before the effective date of the proposed rule. Comments on this proposed information collection should be directed to Robert Sargis, ACF Reports Clearance Officer, by e-mailing *http://regulations.acf.hhs.gov* or faxing (202) 401–5701. HHS will provide notification regarding that approval and the procedures necessary to submit an application for extension at *http://regulations.acf.hhs.gov* or by contacting Robert Sargis at 202–690–7275 or by faxing 202–401–5701.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), and enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this rule will not result in a significant impact on a substantial number of small entities. The regulation provides flexibility and clarity in meeting the Head Start transportation requirements while ensuring child safety.

Regulatory Impact Analysis

Executive Order 12866 requires that regulations be revised to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. The Department has determined that this rule would not impose a mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year.

Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulation may affect family well being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. These regulations will not have an impact on family well being as defined in the legislation.

Executive Order 13132

Executive Order 13132 on Federalism applies to policies that have Federalism implications, defined as ''regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on the States, or on the distribution of powers and responsibilities among the various levels of government.'' This rule does not have Federalism implications for State or local governments as defined in the Executive Order.

List of Subjects in 45 CFR Part 1310

Head Start, Reporting and recordkeeping requirements, Transportation.

(Catalog of Federal Domestic Assistance Program Number 93.600, Head Start)

Wade F. Horn,

Assistant Secretary for Children and Families.

Dated: May 4, 2006.

Michael O. Leavitt,

Secretary of Health and Human Services.

For the reasons discussed above, title 45 CFR chapter XIII is proposed to be amended as follows:

PART 1310—HEAD START TRANSPORTATION

1. The authority citation for part 1310 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

2. Revise paragraphs (b) and (c) of § 1310.2 to read as follows:

§ 1310.2 Applicability.

* * * * *

(b) This paragraph and paragraph (c) of this section, the definition of child restraint systems in § 1310.3 of this part, and § 1310.15(a) are effective October 1, 2006. Sections 1310.11 and 1310.15(c) of this part are effective June 21, 2004. Sections 1310.12(a) and 1310.22(a) are effective June 30, 2006. Section 1310.12(b) of this part is effective February 20, 2001. All other provisions of this part are effective January 18, 2002.

(c) Effective October 1, 2006, an agency may request a waiver of specific requirements of this part, except for the requirements of this paragraph. Requests for waivers must be made in writing to the responsible Health and Human Services (HHS) official, as part of an agency's annual application for financial assistance or amendment thereto, based on good cause. ''Good cause'' for a waiver will exist when adherence to a requirement of this part would itself create a safety hazard in the circumstances faced by the agency, or when compliance with requirements related to child restraint systems (§§ 1310.11, 1310.15(a)) or bus monitors (§ 1310.12(a)) will result in a significant disruption to the program and the agency demonstrates that waiving such requirements is in the best interest of the children involved. The responsible HHS official is not authorized to waive any requirements of the Federal Motor Vehicle Safety Standards (FMVSS) made applicable to any class of vehicle under 49 CFR part 571. The responsible HHS official shall have the right to require such documentation as the official deems necessary in support of a request for a waiver. Approvals of waiver requests must be in writing, be signed by the responsible HHS official, and be based on good cause.

* * * * *

2. Revise the definition of Child Restraint System in § 1310.3 to read as follows:

§ 1310.3 Definitions.

* * * * *

Child Restraint System means any device designed to restrain, seat, or position children that meets the current requirements of Federal Motor Vehicle Safety Standard No. 213, Child Restraint Systems, 49 CFR 571.213, for children in the weight category established under the regulation, or any device designed to restrain, seat, or position children, other than a Type I seat belt as defined at 49 CFR 571.209, for children not in the weight category currently established by 49 CFR 571.213.

* * * * *

§ 1310.12 [Amended]

3. In § 1310.12, amend paragraph (a) by removing ''January 18, 2006'' and adding ''June 30, 2006'' in its place.

4. Revise § 1310.15(a) to read as follows:

§ 1310.15 Operation of vehicles.

* * * * *

(a) Effective October 1, 2006, on a vehicle equipped for use of such devices, any child enrolled in a Head Start or Early Head Start program is seated in a child restraint system appropriate to the child's height and weight while the vehicle is in motion.

* * * * *

§ 1310.22 [Amended]

5. In § 1310.22, amend paragraph (a) by removing ''January 18, 2006'' and adding ''June 30, 2006'' in its place.

[FR Doc. E6–8222 Filed 5–26–06; 8:45 am]

BILLING CODE 4184–01–P

Notices

Federal Register
Vol. 71, No. 103
Tuesday, May 30, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Invitation for Membership on Advisory Committee

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice.

SUMMARY: The Joint Board for the Enrollment of Actuaries (Joint Board), established under the Employee Retirement Income Security Act of 1974 (ERISA), is responsible for the enrollment of individuals who wish to perform actuarial services under ERISA. The Joint Board has established an Advisory Committee on Actuarial Examinations (Advisory Committee) to assist in its examination duties mandated by ERISA. The term of the current Advisory Committee will expire on November 1, 2006. This notice describes the Advisory Committee and invites applications from those interested in serving on it.

1. General

To qualify for enrollment to perform actuarial services under ERISA, an applicant must have requisite pension actuarial experience and satisfy knowledge requirements as provided in the Joint Board's regulations. The knowledge requirements may be satisfied by successful completion of Joint Board examinations in basic actuarial mathematics and methodology and in actuarial mathematics and methodology relating to pension plans qualifying under ERISA.

The Joint Board, the Society of Actuaries, and the American Society of Pension Professionals & Actuaries jointly offer examinations acceptable to the Joint Board for enrollment purposes and acceptable to those actuarial organizations as part of their respective examination programs.

2. Programs

The Advisory Committee plays an integral role in the examination program by assisting the Joint Board in offering examinations that will enable examination candidates to demonstrate the knowledge necessary to qualify for enrollment. The purpose of the Advisory Committee, as renewed, will remain that of assisting the Joint Board in fulfilling this responsibility. The Advisory Committee will discuss the philosophy of such examinations, will review topics appropriately covered in them, and will make recommendations relative thereto. It also will recommend to the Joint Board proposed examination questions. The Joint Board will maintain liaison with the Advisory Committee in this process to ensure that its views on examination content are understood.

3. Function

The manner in which the Advisory Committee functions in preparing examination questions is intertwined with the jointly administered examination program. Under that program, the participating actuarial organizations draft questions and submit them to the Advisory Committee for its consideration. After review of the draft questions, the Advisory Committee selects appropriate questions, modifies them as it deems desirable, and then prepares one or more drafts of actuarial examinations to be recommended to the Joint Board. (In addition to revisions of the draft questions, it may be necessary for the Advisory Committee to originate questions and include them in what is recommended.)

4. Membership

The Joint Board will take steps to ensure maximum practicable representation on the Advisory Committee of points of view regarding the Joint Board's actuarial examination extant in the community at large and from nominees provided by the actuarial organizations. Since the members of the actuarial organizations comprise a large segment of the actuarial profession, this appointive process ensures expression of a broad spectrum of viewpoints. All members of the Advisory Committee will be expected to act in the public interest, that is, to produce examinations that will help ensure a level of competence among those who will be accorded enrollment to perform actuarial services under ERISA.

Membership normally will be limited to actuaries previously enrolled by the Joint Board. However, individuals having academic or other special qualifications of particular value for the Advisory Committee's work also will be considered for membership. The Advisory Committee will meet about four times a year. Advisory Committee members should be prepared to devote from 125 to 175 hours, including meeting time, to the work of the Advisory Committee over the course of a year. Members will be reimbursed for travel expenses incurred, in accordance with applicable government regulations.

Actuaries interested in serving on the Advisory Committee should express their interest and fully state their qualifications in a letter addressed to: Joint Board for the Enrollment of Actuaries, c/o Internal Revenue Service, Attn: Executive Director SE: OPR, Room 7238, 1111 Constitution Avenue, NW., Washington, DC 20224.

Any questions may be directed to the Joint Board's Executive Director at 202–622–8229. The deadline for accepting applications is August 11, 2006.

Dated: May 23, 2006.

Patrick W. McDonough,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. E6–8227 Filed 5–26–06; 8:45 am]

BILLING CODE 4830–01–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee; Meeting

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Executive Director of the Joint Board for the Enrollment of Actuaries gives notice of a meeting of the Advisory Committee on Actuarial Examinations (portions of which will be open to the public) in Washington, DC at the Office of Professional Responsibility on June 26 and June 27, 2006.

DATES: Monday, June 26, 2006, from 9 a.m. to 5 p.m., and Tuesday, June 27, 2006, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held in Room 6505IR, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patrick W. McDonough, Executive Director of the Joint Board for the Enrollment of Actuaries, 202–622–8225.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in Room 6505IR, 1111 Constitution Avenue, NW., Washington, DC on Monday, June 26, 2006, from 9 a.m. to 5 p.m., and Tuesday, June 27, 2006, from 8:30 a.m. to 5 p.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in 29 U.S.C. 1242(a)(1)(B) and to review the May 2006 Basic (EA–1) and Pension (EA–2B) Joint Board Examinations in order to make recommendations relative thereto, including the minimum acceptable pass score. Topics for inclusion on the syllabus for the Joint Board's examination program for the November 2006 Pension (EA–2A) Examination will be discussed.

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that the portions of the meeting dealing with the discussion of questions which may appear on the Joint Board's examinations and review of the May 2006 Joint Board examinations fall within the exceptions to the open meeting requirement set forth in 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such portions be closed to public participation.

The portion of the meeting dealing with the discussion of the other topics will commence at 1 p.m. on June 27 and will continue for as long as necessary to complete the discussion, but not beyond 3 p.m. Time permitting, after the close of this discussion by Committee members, interested persons may make statements germane to this subject. Persons wishing to make oral statements must notify the Executive Director in writing prior to the meeting in order to aid in scheduling the time available and must submit the written text, or at a minimum, an outline of comments they propose to make orally. Such comments will be limited to 10 minutes in length. All other persons planning to attend the public session must also notify the Executive Director in writing to obtain building entry. Notifications of intent to make an oral statement or to attend must be faxed, no later than June 20, 2006, to 202–622–8300, Attn: Executive Director. Any interested person also may file a written statement for consideration by the Joint Board and the Committee by sending it to the Executive Director: Joint Board for the Enrollment of Actuaries, c/o Internal Revenue Service, Attn: Executive Director SE:OPR, 1111 Constitution Avenue, NW., Washington, DC 20224.

Dated: May 23, 2006.

Patrick W. McDonough,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. E6–8226 Filed 5–26–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF AGRICULTURE

Office of Procurement and Property Management; Proposed Collection; Comment Request Concerning Collection of Acquisition Information

AGENCY: Office of Procurement and Property Management, USDA.

ACTION: Notice and request for comments regarding a proposed extension of approved information collection requirements.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Procurement and Property Management (OPPM) intends to submit to the Office of Management and Budget (OMB) a request to review and approve an extension of five currently approved information collections related to the award of, or performance under, USDA contracts. OPPM invites comment on these information collections. These information requirements are currently approved by OMB for use through November 30, 2006.

DATES: Comments on this notice must be received by July 31, 2006 to be assured of consideration.

ADDRESSES: Address all comments concerning this notice to: Patrice K. Honda, Procurement Analyst, Office of Procurement and Property Management, STOP 9303, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–9303. Comments may also be submitted via fax at (202) 720–8972, or through the Internet at *phonda@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Patrice K. Honda, Office of Procurement and Property Management, STOP 9303, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–9303, (202) 720–8924.

SUPPLEMENTARY INFORMATION: USDA is seeking OMB approval of the following information collections:

1. *Title:* Procurement: Maximum Workweek—Construction Schedule.

OMB Number: 0505–0011.

Expiration Date: 11/30/2006.

Type of request: Extension of a currently approved collection.

Proposed use of information: Information about the contractor's proposed hours of work is requested prior to the start of construction so that the agency can determine when on-site representatives are needed. A contracting office will insert this clause in a construction contract when, because of the agency's staffing or budgetary constraints, it is necessary to limit the contractor's performance to a maximum number of hours per week.

Respondents: Businesses or other for-profit; small businesses or organizations.

Estimated Number of Respondents: 400.

Estimated Number of Responses per Respondent: One (1).

Estimate of Burden: The information collected is the hours and days of the week the contractor proposes to carry out construction, with starting and stopping times. Public reporting burden for this collection of information is estimated to average fifteen minutes per response.

Estimated Total Annual Burden on Respondents: 100 hours.

2. *Title:* Procurement: Instruction for the Preparation of Business and Technical Proposals.

OMB Number: 0505–0013.

Expiration Date: 11/30/2006

Type of request: Extension of a currently approved collection.

Proposed use of information: Technical and business proposals received from offerors, including information about offerors' organization and financial systems, are used when conducting negotiated procurement to evaluate and determine the feasibility of the prospective contractor's technical approach, management, and cost/price to accomplish the task and/or provide the supplies or services required under a resultant contract.

Respondents: State or local governments; businesses or other for-profit; small businesses or organizations.

Estimated Number of Respondents: 2,100.

Estimated Number of Responses per Respondent: One (1).

Estimate of Burden: Public reporting burden to prepare technical and business proposals as part of a response to a solicitation is estimated to average

32 hours per response. This estimate does not include burden associated with providing information required in accordance with information collections prescribed by the Federal Acquisition Regulation. Only businesses submitting offers in response to a solicitation are affected by this collection.

Estimated Total Annual Burden on Respondents: 67,200 hours.

3. *Title:* Procurement: Brand Name or Equal Clause.

OMB Number: 0505–0014.

Expiration Date: 11/30/2006.

Type of request: Extension of a currently approved collection.

Proposed use of information: The Agriculture Acquisition Regulation permits the use of ''brand name or equal'' purchase descriptions to procure commercial products. Such descriptions require the offeror on a supply procurement to identify the ''equal'' item being offered and to indicate how that item meets salient characteristics stated in the purchase description. The contracting officer can determine from the descriptive information furnished whether the offered ''equal'' item meets the salient characteristics of the Government's requirements. The use of brand name or equal descriptions eliminates the need for bidders or offerors to read and interpret detailed specifications or purchase descriptions.

Respondents: Businesses or other for-profit; small businesses or organizations.

Estimated Number of Respondents: 26,678.

Estimated Number of Responses per Respondent: One (1).

Estimate of Burden: This information collection is limited to solicitations for products for which other methods of product specification are impracticable. Only businesses wishing to submit bids or offers in response to a solicitation are affected. Public reporting burden for this collection of information is estimated to average one tenth of an hour per response.

Estimated Total Annual Burden on Respondents: 2,668 hours.

4. *Title:* Procurement: Key Personnel Clause.

OMB Number: 0505–0015.

Expiration Date: 11/30/2006.

Type of request: Extension of a currently approved collection.

Proposed use of information: The information enables the agency to determine whether the departure of a key person from the contractor's staff may have a deleterious effect upon contract performance, and to determine what accommodations or remedies may be taken. If the agency could not obtain information about departing key personnel, it could not ensure that qualified personnel continue to perform contract work.

Respondents: State or local governments; businesses or other for-profit; small businesses or organizations.

Estimated Number of Respondents: 300.

Estimated Number of Responses per Respondent: One (1).

Estimate of Burden: The information collection is required only when a contractor proposes to make changes to key personnel assigned to performance of a contract. Consequently, information collection is occasional. Public reporting burden for this collection of information is estimated to average one hour per respondent.

Estimated Total Annual Burden on Respondents: 300 hours.

5. *Title:* Procurement: Progress Reporting Clause.

OMB Number: 0505–0016.

Expiration Date: 11/30/2006.

Type of request: Extension of a currently approved collection.

Proposed use of information: The information is requested monthly or quarterly from contractors performing research and development (R&D) or advisory and assistance services, including ADP system or software development. The information enables the contracting office to monitor actual progress and expenditures compared to anticipated performance and proposal representations upon which the contract award was made. The information alerts the contracting office to technical problems, to a need for additional staff resources or funding, and to the probability of timely completion within the contract cost or price. If the contracting office could not obtain a report of progress, it would have to physically monitor the contractor's operations on a day-to-day basis throughout the performance period.

Respondents: State or local government; businesses or other for-profit; small businesses or organizations.

Estimated Number of Respondents: 300.

Estimated Number of Responses per Respondent: The frequency of progress reports varies from monthly to quarterly depending on the complexity of the contract and the risk of successful completion. Based on monthly reporting, each respondent would submit 12 responses per year.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average one and one half hours per respondent.

Estimated Total Annual Burden on Respondents: 5,400 hours.

Comments: Comments received will be considered in order to: (a) Evaluate whether each proposed collection of information is necessary for the proper performance of the functions of USDA contracting offices, including whether the information will have a practical utility; (b) evaluate the accuracy of OPPM's estimate of the burden of each proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility and clarity of the information to be collected; and (d) minimize the burden of the five collections of information on those who respond, including through the use of automated collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

G.D. Haggstrom,

Deputy Director, Office of Procurement and Property Management.

[FR Doc. E6–8307 Filed 5–26–06; 8:45 am]

BILLING CODE 3410–TX–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Lincoln County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Kootenai National Forest's Lincoln County Resource Advisory Committee will meet on Wednesday June 7, 2006 at 6 p.m. at the Forest Supervisor's Office in Libby, Montana for a business meeting. The meeting is open to the public.

DATES: June 7, 2006.

ADDRESSES: Forest Supervisor's Office, 1101 US Hwy 2 West, Libby, Montana.

FOR FURTHER INFORMATION CONTACT: Barbara Edgmon, Committee Coordinator, Kootenai National Forest at (406) 283–7764, or e-mail *bedgmon@fs.fed.us*.

SUPPLEMENTARY INFORMATION: Agenda topics include vote to reallocate funds to complete approved projects, receiving proposals for 2007, and receiving public comment. If the meeting date or location is changed, notice will be posted in the

local newspapers, including the Daily Interlake based in Kalispell, Montana.

Dated: May 23, 2006.

John Carlson,

Acting Forest Supervisor.

[FR Doc. 06–4912 Filed 5–26–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to the Natural Resources Conservation Service's National Handbook of Conservation Practices

AGENCY: Natural Resources Conservation Service (NRCS), Department of Agriculture.

ACTION: Notice of availability of proposed changes in the NRCS National Handbook of Conservation Practices for public review and comment.

SUMMARY: Notice is hereby given of the intention of NRCS to issue a series of new or revised conservation practice standards in its National Handbook of Conservation Practices. These standards include: ''Above Ground, Multi-Outlet Pipeline (Code 431),'' ''Irrigation System, Microirrigation (Code 441),'' ''Pond Sealing or Lining—Flexible Membrane (Code 521A),'' ''Land Reclamation, Abandoned Mine Land (Code 543),'' ''Land Reclamation, Currently Mined Land (Code 544),'' and ''Watering Facility (Code 614).'' NRCS State Conservationists who choose to adopt these practices for use within their States will incorporate them into Section IV of their respective electronic Field Office Technical Guides (eFOTG). These practices may be used in conservation systems that treat highly erodible land, or on land determined to be wetland.

DATES: *Effective Dates:* Comments will be received for a 30-day period commencing with this date of publication. Final versions of these new or revised conservation practice standards will be adopted after the close of the 30-day period, following consideration of all comments. Comments should be submitted to Daniel Meyer, National Agricultural Engineer, at Natural Resources Conservation Service, Post Office Box 2890, Room 6139–S, Washington, DC 20013–2890, or via e-mail at *Daniel.Meyer@wdc.usda.gov*.

FOR FURTHER INFORMATION CONTACT: Copies of these standards can be downloaded or printed from the following Web site: *ftp://ftp-fc.sc.egov.usda.gov/NHQ/practice-standards/federal-register/*. Single copies of these standards are also available from NRCS' National Headquarters. Submit individual inquiries in writing to Daniel Meyer, National Agricultural Engineer, Natural Resources Conservation Service, Post Office Box 2890, Room 6139–S, Washington, DC 20013–2890, or electronically at *Daniel.Meyer@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 requires NRCS to make available for public review and comment proposed revisions to conservation practice standards used to carry out the highly erodible land and wetland provisions of the law. For the next 30 days, NRCS will receive comments relative to the proposed changes. Following that period, a determination will be made by NRCS regarding disposition of those comments, and a final determination of changes will be made.

Signed in Washington, DC, on May 17, 2006.

Bruce I. Knight,

Chief, Natural Resources Conservation Service.

[FR Doc. E6–8203 Filed 5–26–06; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

East Kentucky Power Cooperative: Notice of Availability of an Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of an Environmental Assessment for public review.

SUMMARY: The Rural Utilities Service, an agency which administers the U.S. Department of Agriculture's Rural Development Utilities Programs (USDA Rural Development) proposes to prepare an Environmental Assessment (EA) related to possible financial assistance to East Kentucky Power Cooperative (EKPC) for the construction of approximately 19 miles of double circuit 345/138 kilovolt (kV) electric transmission line and two 345 kV electric transmission substations. The proposed transmission line and substation projects would be located in Clark County, Kentucky. EKPC is requesting USDA Rural Development to provide financial assistance for the proposed project.

DATES: Written comments on this Notice must be received on or before June 29, 2006.

ADDRESSES: The Environmental Assessment will be available for public review at the Agency's address provided in this notice, at the Agency's Web site: *http://www.usda.gov/rus/water/ees/ea.htm*, at EKPC's headquarters office located at 4775 Lexington Road, Winchester, Kentucky 40391; and at the Clark County Library, 370 South Burns Avenue, Winchester, KY 40391.

Written comments should be sent to: Stephanie Strength, Environmental Protection Specialist, USDA, Rural Development, Utilities Programs, Engineering and Environmental Staff, 1400 Independence Avenue, SW., Stop 1571, Washington, DC 20250–1571 or e-mail *stephanie.strength@wdc.usda.gov*.

FOR FURTHER INFORMATION CONTACT: Stephanie Strength, Environmental Protection Specialist, USDA, Rural Development, Utilities Programs, Engineering and Environmental Staff, 1400 Independence Avenue, SW., Stop 1571, Washington, DC 20250–1571, Telephone: (202) 720–0468. Ms. Strength's e-mail address is *stephanie.strength@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: The proposed project area is located in northeastern, central, and southeastern Clark County, Kentucky. The proposed route for the new electric transmission line extends westerly on new and existing electric utility line rights-of-way (ROWs) from a proposed new substation site located at EKPC's existing J.K. Smith Electric Generating Station, east of the unincorporated community of Bloomingdale in southeastern Clark County. Just east of Muddy Creek Road the proposed route turns northerly following new and mostly existing utility line ROWs to a proposed new substation site located in northeastern Clark County near the Bourbon County/Clark County/Montgomery County Line, and north of Donaldson Road. The electrical conductors for the proposed new transmission line would be supported by Corten steel, two and three pole structures with an average height of 100 feet aboveground. The proposed new line would require a right-of-way (ROW) width of 150 feet. Construction of a portion of the new line would involve rebuilding 16.56 miles of existing 69 kV transmission line on an existing 100-foot wide ROW. The existing line would be dismantled and replaced by the proposed new transmission line. An additional 50 feet in width would be added to the existing ROW to accommodate the proposed new line.

Each of the proposed new substations would affect a maximum of 20 acres of land. The construction of the proposed electric transmission project is tentatively scheduled to begin in the summer of 2006 and the estimated duration of construction would be 10 months.

Alternatives considered by USDA Rural Development and EKPC included: (a) No action, (b) alternate transmission line routes, (c) alternate substation sites, and (d) other electrical alternatives. An Environmental Report (ER) that describes the proposed project in detail and discusses its anticipated environmental impacts has been prepared by EKPC. The USDA Rural Development has accepted the ER as its EA of the proposed project. The EA is available for public review at addresses provided above in this Notice.

Questions and comments should be sent to USDA Rural Development at the mailing or e-mail addresses provided above in this Notice. USDA Rural Development should receive comments on the EA in writing by June 29, 2006 to ensure that they are considered in its environmental impact determination.

Should USDA Rural Development determine, based on the EA of the proposed project, that the impacts of the construction and operation of the project would not have a significant environmental impact, it will prepare a Finding of No Significant Impact. Public notification of a Finding of No Significant Impact would be published in the **Federal Register** and in newspapers with circulation in the project area.

Any final action by USDA Rural Development related to the proposed project will be subject to, and contingent upon, compliance with all relevant Federal, state and local environmental laws and regulations, and completion of the environmental review requirements as prescribed in USDA Rural Development's Environmental Policies and Procedures (7 CFR part 1794).

Mark S. Plank,

Director, Engineering and Environmental Staff, USDA/Rural Development/Utilities Programs.

[FR Doc. 06–4874 Filed 5–26–06; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security (BIS).

Title: Chemical Weapons Convention Declaration and Report Handbook and Forms.

Agency Form Number: Form 1–1, Form 1–2, Form 1–2A, Form 1–2B, etc.

OMB Approval Number: 0694–0091.

Type of Request: Extension of a currently approved collection of information.

Burden: 10,811 hours.

Average Time per Response: 10 minutes–31 hours per response.

Number of Respondents: 861 respondents.

Needs and Uses: This information is required for the United States to comply with the Chemical Weapons Convention (CWC), an international arms control treaty. The Chemical Weapons Convention Implementation Act of 1998 and Commerce Chemical Weapons Convention Regulations (CWCR) specify the rights, responsibilities and obligations for submission of declarations, reports and inspections.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, DOC Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, e-mail address, David_Rostker@omb.eop.gov, or fax number, (202) 395–7285.

Dated: May 23, 2006.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–8210 Filed 5–26–06; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis (BEA), Commerce.

Title: Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment, or Purchase of the Operating Assets, of a U.S. Business Enterprise, Including Real Estate (Form BE–13) and Report by a U.S. Person Who Assists or Intervenes in the Acquisition of a U.S. Business Enterprise by, or Who Enters into a Joint Venture with, a Foreign Person (Form BE–14).

Form Number(s): BE–13, BE–13 Supplement C, and BE–14.

Agency Approval Number: 0608–0035.

Type of Request: Extension of a currently approved collection.

Burden: 900 hours.

Number of Respondents: 600 annually.

Average Hours per Response: 1.5 hours.

Needs and Uses: The Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment, or Purchase of the Operating Assets, of a U.S. Business Enterprise, Including Real Estate (Form BE–13) and the Report by a U.S. Person Who Assists or Intervenes in the Acquisition of a U.S. Business Enterprise by, or Who Enters into a Joint Venture with, a Foreign Person (Form BE–14) obtain initial data on new foreign direct investment in the United States. The BE–13 survey collects information on the cost of new foreign direct investment in the United States, the sources of funding (*i.e.*, the foreign parent group and/or existing U.S. affiliates of the foreign parent), and limited financial and operating data for the U.S. entity being established or acquired; the survey also collects identification information about the U.S. entity being established or acquired and about the new foreign owner(s). The BE–14 survey collects information from U.S. persons who assist in an investment transaction, such as a real estate broker or attorney, or who enter into a U.S. joint venture with a foreign person. The primary purpose of this information collection is to identify new U.S. affiliates that should be included in BEA's estimates of foreign direct investment in the United States. The information is needed to update data on the universe of U.S. affiliates to ensure that it is complete, and to determine whether the new affiliates exceed the exemption criteria required for reporting in related benchmark, annual, and quarterly surveys of foreign direct investment conducted by BEA. The

information is also used to improve the accuracy of universe estimates derived from BEA's ongoing annual and quarterly sample surveys of foreign direct investment.

Representatives of many State and local governments take active steps to attract new foreign direct investment to their localities. To make informed policy decisions concerning such investment, it is essential that government entities, including the U.S. Government, have the means to measure foreign direct investment in the United States, monitor changes in it, and assess its economic impact. Data from the survey are intended to be general purpose statistics on foreign direct investment that are readily available to answer any number of research and policy questions when they arise.

Affected Public: U.S. businesses or other for-profit institutions.

Frequency: One-time survey.

Respondent's Obligation: Mandatory.

Legal Authority: International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 U.S.C. 3101–3108).

OMB Desk Officer: Paul Bugg, (202) 395–3093.

You may obtain copies of the above information collection proposal by writing Diana Hynek, Departmental Paperwork Clearance Officer, Office of the Chief Information Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230, or via the Internet at *dhynek@doc.gov*.

Send comments on the proposed information collection within 30 days of publication of this notice to the Office of Management and Budget, O.I.R.A., Attention PRA Desk Officer for BEA, via the Internet at *pbugg@omb.eop.gov*, or by FAX at 202–395–7245.

Dated: May 23, 2006.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–8211 Filed 5–26–06; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: American Fisheries Act: Vessel and Processor Permit Applications.

Form Number(s): None.

OMB Approval Number: 0648–0393.

Type of Request: Regular submission.

Burden Hours: 29.

Number of Respondents: 11.

Average Hours per Response: Inshore catcher vessel cooperative permit, 2 hours and 30 minutes; and replacement vessel permit, 30 minutes.

Needs and Uses: Under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) National Marine Fisheries Service (NMFS) manages the groundfish fisheries in the exclusive economic zone (EEZ) off Alaska through fishery management plans. Regulations that implement those fishery management plans appear at 50 CFR part 679. The American Fisheries Act, 16 U.S.C. 1851 note (AFA) provided a new program for the Bering Sea and Aleutian Islands (BSAI) pollock fishery. In response to the AFA, NMFS developed a management program for BSAI pollock to include a set of permits for AFA catcher/processors, AFA catcher vessels, AFA inshore processors, AFA motherships, and AFA cooperatives. The vessels and processors in the BSAI pollock fishery are required to have valid AFA permits on board the vessel or at the processing plant, in addition to any other Federal or State permits.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: Annually and on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: May 22, 2006.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–8212 Filed 5–26–06; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Institute of Standards and Technology (NIST).

Title: NIST Manufacturing Extension Partnership (MEP) Management Information Reporting.

Form Number(s): None.

OMB Approval Number: 0693–0032.

Type of Review: Regular submission.

Burden Hours: 7,493.

Number of Respondents: 59.

Average Hours per Response: 127.

Needs and Uses: NIST MEP offers technical and business assistance to small- and medium-sized manufacturers. This is a major program which links all 50 states and Puerto Rico and the manufacturers through more than 400 affiliated MEP Centers and Field Offices. NIST MEP has a number of legislative and contractual requirements for collecting data and information from the MEP Centers. This information is used for the following purposes: (1) Program Accountability, (2) Reports to Stakeholders, (3) Continuous Improvement; and (4) Identification of Distinctive Practices.

Affected Public: Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Jasmeet Seehra, (202) 395–3123.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jasmeet Seehra, OMB Desk Officer, FAX number (202) 395–5167, or *Jasmeet_K._Seehra@omb.eop.gov.*

Dated: May 22, 2006.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–8213 Filed 5–26–06; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Tortugas Access Permits.

Form Number(s): None.

OMB Approval Number: 0648–0418.

Type of Request: Regular submission.

Burden Hours: 13.

Number of Respondents: 49.

Average Hours per Response: Applications, 10 minutes; radio call-in/call-out, 2 minutes; and appeals, 1 hour and 30 minutes.

Needs and Uses: NOAA has regulations to implement a Tortugas Ecological Reserve and to regulate activities within the reserve. The rule prohibits fishing, taking of organisms, anchoring, or discharging pollutants by vessels, and by controlling access to the reserve through an access permit. A limited number of mooring buoys is provided to allow access without anchoring. The overall objective is to protect the deepwater coral reef community from being degraded by human activities. The permits have been shown to help enforce access and no-take restrictions. Persons with permits provide notification prior to entering the reserve and when leaving it.

Affected Public: Business or other for-profit organizations; individuals or households; not-for-profit institutions; State, Local or Tribal Government.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: May 22, 2006.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–8214 Filed 5–26–06; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Initiation of New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 30, 2006.

SUMMARY: The Department of Commerce (the ''Department'') has determined that a request for a new shipper review of the antidumping duty order on brake rotors from the People's Republic of China (''PRC''), received on March 16, 2006, meets the statutory and regulatory requirements for initiation. The period of review (''POR'') of this new shipper review is April 1, 2005, through March 31, 2006.

FOR FURTHER INFORMATION CONTACT: Ann Fornaro or Blanche Ziv at (202) 482–3927 and (202) 482–4207, respectively, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

The notice announcing the antidumping duty order on brake rotors from the PRC was published on April 17, 1997. *See Notice of Antidumping Duty Order: Brake Rotors from the People's Republic of China*, 62 FR 18740 (April 17, 1997). On March 16, 2006, we received a request for a new shipper review from Qingdao Golrich Autoparts Co., Ltd. (''Golrich''). Golrich certified that it produced and exported the brake rotors on which it based its request for a new shipper review.

Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B)(i)(I) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.214(b)(2)(i), Golrich certified that it did not export brake rotors to the United States during the period of investigation (''POI''). Pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Golrich certified that, since the initiation of the investigation, it had never been affiliated with any exporter or manufacturer who exported brake rotors to the United States during the POI, including those not individually examined during the investigation. As required by 19 CFR 351.214(b)(2)(iii)(B), Golrich also certified that its export activities were not controlled by the central government of the PRC.

In addition to the certifications described above, Golrich submitted documentation establishing the following: (1) The date on which it first shipped brake rotors for export to the United States and the date on which the brake rotors were first entered, or withdrawn from warehouse, for consumption; (2) the volume of its first shipment and the volume of subsequent shipments; and (3) the date of its first sale to an unaffiliated customer in the United States.

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), we find that the request submitted by Golrich meets the threshold requirements for initiation of a new shipper review for shipments of brake rotors from the PRC produced and exported by this company. The POR is April 1, 2005, through March 31, 2006. *See* 19 CFR 351.214(g)(1)(i)(A). We intend to issue preliminary results of this review no later than 180 days from the date of initiation, and final results of this review no later than 270 days from the date of initiation. *See* Section 751(a)(2)(B)(iv) of the Act.

Because Golrich has certified that it manufactured and exported the brake rotors on which it based its request for a new shipper review, we will instruct U.S. Customs and Border Protection (''CBP'') to allow, at the option of the importer, the posting of a bond or security in lieu of a cash deposit for each entry of brake rotors both manufactured and exported by Golrich until the completion of the new shipper review, pursuant to section 751(a)(2)(B)(iii) of the Act.

Interested parties that need access to proprietary information in this new shipper review should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are issued in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: May 23, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–8277 Filed 5–26–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–485–806]

Certain Hot–Rolled Carbon Steel Flat Products from Romania: Final Results of Antidumping Duty Administrative Review and Rescission in Part of Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On December 8, 2005, the Department of Commerce published the preliminary results of the antidumping duty administrative review of certain hot–rolled carbon steel flat products from Romania. This review initially covered two manufacturers/exporters of the subject merchandise, Mittal Steel Galati S.A. and Metalexport Import, S.A. The period of review is November 1, 2003, through October 31, 2004. Based on our analysis of comments received, we have made changes in the margin calculation for Mittal Steel Galati S.A. Therefore, these final results differ from the preliminary results. The final results are listed below in the ''Final Results of Review'' section. We are also rescinding the review with respect to Metalexport Import S.A. because this firm had no entries, exports, or sales of the subject merchandise during this period of review.

EFFECTIVE DATE: May 30, 2006.

FOR FURTHER INFORMATION CONTACT: Dave Dirstine or Dunyako Ahmadu, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4033 and (202) 482–0198, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 2005, the Department of Commerce (the Department) published the preliminary results of the antidumping duty administrative review of certain hot–rolled carbon steel flat products from Romania (*Certain Hot–Rolled Carbon Steel Flat Products From Romania: Preliminary Results of the Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 72984 (Dec. 8, 2005) (*Preliminary Results*)). We had initiated reviews of two manufacturers/exporters, Mittal Steel Galati S.A. (MS Galati) and Metalexport Import S.A. (MEI).

We invited parties to comment on our preliminary results of review. MS Galati and domestic interested parties, United States Steel Corporation and Nucor Corporation, filed case briefs on January 17, 2006, and rebuttal briefs on January 30, 2006. Further, in response to our February 27, 2006, request MS Galati filed a supplemental questionnaire response dated March 8, 2006, to which USSC filed comments on March 17, 2006.

On March 29, 2006, the Department published in the **Federal Register** a notice extending the due date for the final results of the administrative review of the antidumping duty order on certain hot–rolled carbon steel flat products from Romania until no later than May 22, 2006 (*Notice of Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review: Certain Hot–Rolled Carbon Steel Flat Products from Romania*, 71 FR 15696 (Mar. 29, 2006)).

Scope of the Order

The products covered by the order are certain hot–rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non–metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight length, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

Specifically included within the scope of this order are vacuum degassed, fully stabilized (commonly referred to as interstitial–free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro–alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro–alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro–alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, 2.25 percent of silicon, 1.00 percent of copper, 0.50 percent of aluminum, 1.25 percent of chromium, 0.30 percent of cobalt, 0.40 percent of lead, 1.25 percent of nickel, 0.30 percent of tungsten, 0.10 percent of molybdenum, 0.10 percent of niobium, 0.15 percent of vanadium or 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this order: Alloy hot–rolled steel products in which at least one of the chemical elements exceeds those listed above (including, e.g., American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506). Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher. Ball bearing steels, as defined in the HTSUS. Tool steels, as defined in the HTSUS. Silico–manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent. ASTM specifications A710 and A736. USS abrasion–resistant steels (USS AR 400, USS AR 500). All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507). Non–rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to this order is classified in the HTSUS at the following subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot–rolled carbon steel flat

products covered by this order, including vacuum degassed fully stabilized, high strength low alloy, and the substrate for motor lamination steel, may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this proceeding is dispositive.

Rescission of the Review in Part

In the *Preliminary Results*, we stated our intent to rescind the administrative review with respect to MEI which reported no entries, exports, or sales of merchandise subject to this review. See *Preliminary Results*, 70 FR at 72985. Because we continue to find no evidence of sales to the United States by MEI during the period of review, we are rescinding the review with respect to this firm. See 19 CFR 351.213(d)(3).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the ''Issues and Decision Memorandum'' (Decision Memo) from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated May 22, 2006, which is hereby adopted by this notice. A list of the issues which the parties have raised and to which we have responded is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this review and corresponding recommendations in this public memorandum which is on file in Import Administration's Central Records Unit, Room B–099 of the main Department building. In addition, a complete version of the Decision Memo is available on the Internet at *http://ia.ita.doc.gov/frn/index.html*. The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made methodological changes to our calculations as reflected in the Decision Memo. These changes are discussed in the Final Results Analysis Memorandum from the case analyst to the File dated May 22, 2006.

Final Results of Review

As a result of our review, we determine that the following weighted–average percentage margin exists for the period November 1, 2003, through October 31, 2004:

Manufacturer/exporter	Margin (percent)
Mittal Steel Galati S.A.	1.59

Assessment Rate

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212(b)(1). Also, in accordance with 19 CFR 351.212(b)(1), we have calculated an importer–specific assessment rate. For the sales in the United States through the respondent's affiliated U.S. party, we divided the total dumping margin for the reviewed sales by the total entered value of those reviewed sales. We will direct CBP to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of the entries during the review period consistent with 19 CFR 351.212(b)(1).

The Department clarified its ''automatic assessment'' regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the period of review produced by the company included in these final results of review for which the reviewed company did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). We will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review.

Cash–Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided by section 751(a) of the Tariff Act of 1930, as amended (the Act): (1) the cash–deposit rate for MS Galati will be 1.59 percent; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash–deposit rate will continue to be the company–specific rate published in the prior segment of the proceeding in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding but the manufacturer is, the cash–deposit rate will be that established for the manufacturer of the merchandise in these final results of review or in the most recent segment of the proceeding in which that manufacturer participated; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash–deposit rate will be the ''All Others'' rate made effective on June 14, 2005, which is 17.84 percent. See *Certain Hot–Rolled Carbon Steel Flat Products From Romania: Final Results of Antidumping Duty Administrative Review*, 70 FR 34448, 34450 (June 14, 2005). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification

This notice also serves as the final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and in the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

These final results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 22, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix

Comment 1: U.S. Indirect Selling Expense - Treatment of Bonus Expenses
Comment 2: U.S. Indirect Selling Expense - Treatment of Sales–Agency Fees

Comment 3: U.S. Indirect Selling Expense - Treatment of Bad–Debt Expenses

Comment 4: U.S. Indirect Selling Expense - Treatment of Sidex Trading's Expenses
Comment 5: U.S. Indirect Selling Expense - Treatment of Interest Expenses

Comment 6: U.S. Indirect Selling Expense - Treatment of Corporate Expenses

Comment 7: U.S. Date of Sale
Comment 8: U.S. Credit Expense
Comment 9: Universe of Sales in the United States
Comment 10: Exchange Rates

[FR Doc. E6–8278 Filed 5–26–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–580–829)

Stainless Steel Wire Rod from the Republic of Korea: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 30, 2006.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan or Malcolm Burke, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4081 and (202) 482–3584, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 25, 2005, the Department of Commerce (the Department) published a notice of initiation of an administrative review of the antidumping duty order on stainless steel wire rod from the Republic of Korea, covering the period September 1, 2004, through August 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 61601 (October 25, 2005). The preliminary results are currently due no later than June 2, 2006.

Extension of Time Limit for Preliminary Results of Review

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete a review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 245–day time limit for the preliminary determination to a maximum of 365 days and the time limit for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

The Department has determined that it is not practicable to complete the preliminary results of this review within the original time limit because the review involves examining a number of complex issues regarding affiliation and post sales price adjustments. Therefore, the Department is fully extending the time limit for completion of the preliminary results of this review by 120 days. The preliminary results of review will now be due on October 2, 2006, which is the first business day after the 120–day extension (the 120th day falls on a weekend). The deadline for the final results of this administrative review continues to be 120 days after publication of the preliminary results of review.

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: May 22, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–8263 Filed 5–26–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–844]

Steel Concrete Reinforcing Bars from the Republic of Korea: Extension of the Time Limit for the Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 30, 2006.

FOR FURTHER INFORMATION CONTACT: Thomas Martin at (202) 482–3936, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On September 21, 2005, Dongkuk Steel Mill Co. Ltd., a Korean producer of subject merchandise, requested an administrative review of the antidumping duty order on Steel Concrete Reinforcing Bars from Korea. On September 30, 2005, the petitioners in the proceeding, the Rebar Trade Action Coalition and its individual members, also requested an administrative review of the antidumping order.[1] On October 25, 2005, the Department published a notice of initiation of the administrative review, covering the period September 1, 2004, through August 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 61601 (October 25, 2005) (''*Initiation Notice*''). The preliminary results are currently due no later than June 2, 2006.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to complete the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested, and the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for (1) the preliminary results to a

[1] The Rebar Trade Action Coalition comprises Gerdau AmeriSteel, CMC Steel Group, Nucor Corporation, and TAMCO.

maximum of 365 days after the last day of the anniversary month of an order for which a review is requested, and (2) the final results to 180 days (or 300 days if the Department does not extend the time limit for the preliminary results) from the date of publication of the preliminary results.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limits. Specifically, a complex affiliation issue has been raised. Korea Iron & Steel Co. Ltd., has reported that it is affiliated with Hwangyoung Steel Industries Co. Ltd., and has reported the home market sales and cost of production for this company. The Department needs more time to evaluate the affiliation issue and the reported data more thoroughly. For these reasons, we are extending the time limit for completion of the preliminary results until no later than September 30, 2006. We intend to issue the final results no later than 120 days after publication of the preliminary results.

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: May 23, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–8276 Filed 5–26–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051606C]

Notice of Availability of Records of Decision for the Final Programmatic Environmental Impact Statement for the Montrose Settlements Restoration Program

AGENCIES: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA),Commerce; U.S. Fish and Wildlife Service (USFWS), Interior; National Parks Service (NPS), Interior.

ACTION: Notice of Availability of the three Records of Decision for the Programmatic Environmental Impact Statement for the Montrose Settlements Restoration Program Natural Resource Restoration Plan.

SUMMARY: The NOAA, USFWS, and NPS collectively announce the availability of their Records of Decision (RODs) for the Programmatic Environmental Impact Statement (EIS) for the Montrose Settlements Restoration Program Natural Resource Restoration Plan. NOAA, USFWS, and NPS are members of the natural resource trustee council planning and implementing natural resource restoration under the terms of the final settlement of litigation against the Montrose Chemical Corporation and other defendants. NOAA is the lead Federal agency, and USFWS and NPS are cooperating Federal agencies. The final EIS was released to the public for 30 days after the publication of a Notice of Availability in the **Federal Register** on November 11, 2005. The ROD documents the selection of Alternative 2 (the preferred alternative) in the final EIS.

ADDRESSES: Copies of the RODs may be obtained by written request to Trina Heard, NOAA GCNR, 501 West Ocean Blvd. Suite 4470, Long Beach, CA 90802; by email request to *Trina.Heard@noaa.gov*; or by calling Trina Heard at (562) 980–4070. The documents are also available on the Montrose Settlements Restoration Program web site at *www.montroserestoration.gov*.

FOR FURTHER INFORMATION CONTACT: Greg Baker, Program Manager, Montrose Settlements Restoration Program, 345 Middlefield Road, MS–999, Menlo Park, CA 94025, or *Greg.Baker@noaa.gov*, (650) 329–5048.

SUPPLEMENTARY INFORMATION: The following is a summary of the RODs. NOAA, USFWS, and NPS selected final Restoration Plan EIS Alternative 2. Alternative 2 describes a first phase, $25 million course of action to restore natural resources injured by past releases of DDT (dichlorodiphenyltrichloroethane) and PCBs (polychlorinated biphenyls) into Southern California coastal waters. The selected actions restore fishing and fish habitat, seabirds, bald eagles, and peregrine falcons over a broad geographic area within the Southern California Bight. The restoration actions are:

- Construct artificial reefs and fishing access improvements;
- Provide public information to restore lost fishing services;
- Restore full tidal exchange wetlands;
- Augment funds for implementing Marine Protected Areas in California;
- Complete the NCI Bald Eagle Feasibility Study before deciding on further restoration actions;
- Monitor the recovery of peregrine falcons on the Channel Islands;
- Restore seabirds to San Miguel Island;
- Restore alcids to Santa Barbara Island;
- Restore seabirds to San Nicolas Island;
- Restore seabirds to Scorpion and Orizaba Rocks; and
- Restore seabirds to Baja California Pacific Islands.

The NOAA, USFWS, and NPS reached their decision after taking into account the evaluation factors listed in the Restoration Plan EIS and in 43 CFR Part 11.82, the requirements of the National Environmental Policy Act and its implementing regulations, and other applicable laws and regulations listed in Section 8 of the final EIS. The final selected program (Alternative 2) includes minor modifications based on public comments. As documented in the FEIS, this alternative was deemed to be the environmentally preferred course of action.

Dated: May 24, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E6–8265 Filed 5–26–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052406A]

Fisheries of the Exclusive Economic Zone Off Alaska; Application for an Exempted Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of an application for an exempted fishing permit.

SUMMARY: This notice announces receipt of an application for an exempted fishing permit (EFP) from the Marine Conservation Alliance Foundation. If granted, the EFP would allow the applicant to test trawl gear modifications that may reduce Pacific halibut bycatch rates for trawlers targeting Pacific cod in the Central Gulf of Alaska (GOA). This project is intended to promote the objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska and National Standard 9 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by developing gear that may reduce bycatch.

ADDRESSES: Copies of the EFP application and the environmental assessment (EA) are available by writing to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P. O. Box 21668, Juneau, AK 99802, Attn: Ellen Walsh. The application and EA are also available from the Alaska Region, NMFS website at *http://www.fakr.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Jason Gasper, 907–586–7228 or *jason.gasper@noaa.gov*.

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service (NMFS) manages the domestic groundfish fisheries in the GOA under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the Magnuson-Stevens Act. Regulations governing the groundfish fisheries of the GOA appear at 50 CFR parts 600 and 679. The FMP and the implementing regulations at §§ 679.6 and 600.745(b) authorize issuance of EFPs to allow fishing that would be otherwise prohibited. Procedures for issuing EFPs are contained in the implementing regulations.

NMFS received an EFP application from Alaska Marine Conservation Alliance Foundation in April 2006. The proposed EFP would allow for the testing of a modification to trawl gear commonly used in the Central GOA that may reduce Pacific halibut bycatch rates in the Central GOA trawl fishery. GOA trawl fishery Pacific halibut bycatch is controlled by a prohibited species catch (PSC) limit. Once reached, a PSC limit closes a fishery regardless of the available target species quota. These closures impose a cost on the industry in the form of unharvested groundfish quota. Therefore, a reduction in PSC bycatch rates may allow the industry to harvest a greater proportion of the total allowable catch (TAC) of groundfish.

The proposed EFP's primary objective is to reduce Pacific halibut bycatch rates without substantially reducing the target species catch (Pacific cod). The Alaska Marine Conservation Alliance developed the EFP in cooperation with NMFS scientists at the Alaska Fisheries Science Center (AFSC). The project has the following three performance goals: (1) To reduce current Pacific halibut bycatch rates by 40 percent; (2) to not reduce the target species catch by more than 10 percent; and (3) to be functional for a typical GOA trawl vessel which has limited deck space and may have only aft reels. The degree to which the excluder meets these performance goals will be evaluated by the applicant and the AFSC.

The project will take two weeks to conduct between August 1, 2006, and August 30, 2006. The project may be extended by the Regional Administrator to occur during a two week period between August 1, 2007 and August 30, 2007. Continuation of the experiment in 2007 would allow refinement of the trawl gear modification and time to address statistical issues discovered during the 2006 experiment. August was chosen by the applicant because trawl vessels are not fishing for Pacific cod and are thus available to fish the EFP permit. Fishing would occur in the Central GOA, primarily in the Portlock Bank and Albatross Bank areas near Kodiak Island, Alaska. Fishing would be conducted by six trawl vessels each equipped with ordinary trawl gear. Participating vessels would be vessels that operate in the Central GOA Pacific cod trawl fishery.

The proposed EFP exempts the applicant from fishery closures and prohibited species catch (PSC) limits. These exemptions are necessary to allow the permit holder to efficiently conduct the project and minimize Central GOA trawl fishery impacts. The EFP would exempt the applicant from Central GOA directed fishing closures implemented under §§ 679.20, 679.21, 679.23 or 679.25. Retained amounts of groundfish other than Pacific cod would be limited to the relevant maximum retainable amount specified in Table 10 of 50 CFR part 679, using Pacific cod as the basis species from which maximum retainable amounts would be calculated. The proposed EFP would also exempt the applicant from observer requirements at §§ 679.50, 679.7(a)(3), and 679.7(g).

The total allowable groundfish harvest for the proposed EFP is 1,300 metric tons (mt), of which 950 mt is expected to be Pacific cod and 350 mt is expected to be other groundfish species. Sufficient TAC amounts for several groundfish species likely to be taken during the project may be fully utilized by the groundfish fishery. Therefore, groundfish harvested under the EFP would not be deducted from the TAC amounts specified in the annual harvest specifications (71 FR 10870, March 3, 2006).

The PSC limit for Pacific halibut may be reached during the project, requiring the closure of the Central GOA trawl fisheries in accordance with 50 CFR 600.745(b) and 50 CFR 679.25. Halibut PSC limits closed the Central GOA trawl fishery for flatfish before the TAC was taken in 2003, 2004, and 2005. Therefore, to limit the impact on other Central GOA groundfish fisheries, halibut mortality from the project is limited to a maximum of 90 mt and would not be counted against the annual PSC limit. The proposed EFP would exempt a vessel from halibut PSC limits at 50 CFR 679.21(d)(3) and permit up to 90 mt of halibut mortality as determined through consultation with the International Pacific Halibut Commission (IPHC) and the AFSC.

In accordance with 50 CFR 600.745(b) and 50 CFR 679.6, NMFS has determined that the proposal warrants further consideration and has initiated consultation with the Council by forwarding the application to the Council. The Council will consider the EFP application during its June 5–13, 2006 meeting in Kodiak, Alaska. The applicant has been invited to appear in support of the application. Interested persons may comment on the application at the Council meeting during public testimony. Information regarding the June 2006 Council meeting is available at the Council's website at *http://www.fakr.noaa.gov/npfmc/council.htm*.

Copies of the application and EA are available for review from NMFS (see **ADDRESSES**).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 24, 2006.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–8264 Filed 5–26–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052306C]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Ad Hoc Grouper Individual Fishing Quota (IFQ) Advisory Panel (AHGIFQAP).

DATES: The AHGIFQAP meeting will convene at 8:30 a.m. on Thursday, June 15 and conclude no later than 3 p.m. on Friday, June 16, 2006.

ADDRESSES: The meeting will be held at the Embassy Suites Hotel, 555 North Westshore Boulevard, Tampa, FL 33609; telephone: (813).875–1555.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Stu Kennedy, Fishery Biologist, telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council has begun deliberation of a Dedicated Access Privilege System (DAP) for the Commercial grouper fishery. The Council has appointed an AHGIFQAP composed of commercial grouper fishermen and others knowledgeable about DAP systems to assist in the development of such a program. The Panel will discuss the scope and the general configuration of an IFQ program for the Gulf of Mexico commercial grouper fishery.

Although other non-emergency issues not on the agenda may come before the AHGIFQAP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions of the AHGIFQAP will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency. Copies of the agenda can be obtained by calling (813) 348–1630.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina Trezza at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: May 24, 2006.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–8248 Filed 5–26–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052306B]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a two-day Council meeting on June 13–15, 2006, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, June 13 beginning at 9 a.m., and Wednesday and Thursday, June 14 and 15, beginning at 8:30 a.m. each day.

ADDRESSES: The meeting will be held at the Hyatt Regency Hotel, One Goat Island, Newport, RI 02940; telephone: (401) 851–1234.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Tuesday, June 13, 2006

Following introductions, the Council will receive reports from the Council Chairman and Executive Director, the NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel and representatives of the U.S. Coast Guard, NMFS Enforcement and the Atlantic States Marine Fisheries Commission. During this morning session, the Council will receive a briefing from the Standard Bycatch Reporting Methodology (SBRM) Committee on progress to date on the development of an amendment to implement an SBRM process across all New England Fishery Management Council fishery management plans (FMPs). During the remainder of the day, the Council will review and approve a range of essential fish habitat (EFH) designation alternatives for inclusion in phase I of the Council's EFH Omnibus Amendment. This review also will include the prey species-related sections of the amendment.

Wednesday, June 14, 2006

During the morning session the Council's Research Steering Committee Chairman will report on the committee's recommendations concerning the use of information provided in several cooperative research final reports. The committee also will provide additional comments and recommendations on the process to review final reports. There will be a report on the results of the Transboundary Resource Assessment Committee's findings on the status of Atlantic herring. The Council will then discuss, review and approve the comments of its Magnuson-Stevens Act Committee on two reauthorization bills under consideration by the U.S. House of Representatives. Prior to a noontime break, there will be a briefing by fishing industry representatives on progress to date to develop an industry-funded vessel buyout program for New England groundfish vessels.

The afternoon session will begin with the presentation of a NOAA Fisheries Environmental Hero Award by Northeast Regional Administrator Pat Kurkul to the Cape Cod Commercial Hook Fishermen's Association. This report will be followed by an opportunity for public comments on items not listed on the agenda. Council Executive Director Paul Howard will then provide background information on the use of sector allocation as a fishery management tool. The Groundfish Committee will initiate the development of Council comments on the Cape Cod Commercial Hook Sector's operations plan for the 2006 fishing year. At the end of the day, there will be a report by several Council members on their personal observations concerning New Zealand's Quota Management System.

Thursday, June 15, 2006

Beginning with the morning session, the Council will spend the majority of the day on sea scallop management issues. There will be an update on the activities of the Scallop Survey Advisory Committee, a report from the Scientific and Statistical Committee on updated scallop biological reference points and consideration and likely approval of alternatives to be considered and analyzed in the Draft Supplemental Environmental Impact Statement to accompany Amendment 11 to the Scallop Fishery Management Plan. Finally, the Council will discuss and intends to reaffirm its control date for the hagfish fishery.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: May 24, 2006.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–8247 Filed 5–26–06; 8:45 am]

BILLING CODE 3510–22–S

PATENT AND TRADEMARK OFFICE

Patent Processing (Updating)

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 31, 2006.

ADDRESSES: You may submit comments by any of the following methods:

E-mail: Susan.Brown@uspto.gov. Include ''0651–0031 comment'' in the subject line of the message.

Fax: 571–273–0112, marked to the attention of Susan Brown.

Mail: Susan K. Brown, Records Officer, Office of the Chief Information Officer, Architecture, Engineering and Technical Services, Data Architecture and Services Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Federal e-Rulemaking Portal: http://www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Robert J. Spar, Director, Office of Patent Legal Administration, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–7700; or by e-mail at *bob.spar@uspto.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. 131 to examine an application for patent and, when appropriate, issue a patent. Also, the USPTO is required to publish patent applications, with certain exceptions, promptly after the expiration of a period of eighteen months from the earliest filing date for which a benefit is sought under Title 35, United States Code (''eighteen-month publication''). Certain situations may arise which require that additional information be supplied in order for the USPTO to further process the patent or application. The USPTO administers the statutes through various sections of the rules of practice in 37 CFR part 1.

The information in this collection can be used by the USPTO to continue the processing of the patent or application, to ensure that applicants are complying with the patent regulations, and to aid in the prosecution of the application.

The USPTO is adding two new forms into this collection. PTO/SB/33, Pre-Appeal Brief Request for Review, is a new optional procedure that is intended to spare applicants the added time and expense of preparing an appeal brief for an application that ultimately may be categorized as ''not in condition for appeal.''

Also new is form PTO/SB/28, Petition to Make Special Under Accelerated Examination Program. The requirement for the petition is already approved in the collection; however, the response time has been increased from 1 hour to 12 hours. Applicants who choose to participate in this optional procedure in order to receive the benefit of accelerated examination will have to share in the examination burden to a greater extent. In return, such applicants will receive the benefit of an early patentability determination for their claimed invention.

A previously overlooked requirement, the Request for Corrected Filing Receipt, is also being added into the collection, in both paper and electronic formats. Forms for this requirement are currently under development.

There are 41 forms associated with this collection.

II. Method of Collection

By mail, facsimile, or hand delivery to the USPTO. The eIDS (electronic information disclosure statements), the electronic filing system (EFS) copy of the application for publication, and the request for corrected filing receipt may be submitted electronically over the Internet.

III. Data

OMB Number: 0651–0031.

Form Number(s): PTO/SB/08/08a/08b, PTO/SB/17i, PTO/SB/17P; PTO/SB/21–28, PTO/SB/24A, PTO/SB/24B, PTO/SB/30–33, PTO/SB/35–39, PTO/SB/42–43, PTO/SB/61–64, PTO/SB/64a, PTO/SB/67–68, PTO/SB/91–92, PTO/SB/96–97, PTO–2053–A/B, PTO–2054–A/B, PTO–2055–A/B, PTOL/413A.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; farms; the Federal Government; and state, local or tribal governments.

Estimated Number of Respondents: 2,604,029 responses per year.

Estimated Time Per Response: The USPTO estimates that it will take the public between 1 minute and 48 seconds (0.03 hours) to 12 hours (12.0 hours), depending upon the complexity of the situation, to gather, prepare, and submit the various documents in this information collection.

Estimated Total Annual Respondent Burden Hours: 3,157,840 hours per year.

Estimated Total Annual Respondent Cost Burden: $504,711,200 per year. The USPTO expects that the transmittal form; the petition for extension of time under 37 CFR 1.136(a); express abandonment under 1.138; express abandonment to avoid publication under 1.138(c); requests to access, inspect and copy; deposit account order form; certificates of mailing/transmission; electronic filing system (EFS) copy of application for publication; the copy of the applicant or patentee's record of the application; the request for voluntary publication or republication; the petition for request for documents in a form other than that provided by 1.19; the request for processing of replacement drawings; and the request for corrected filing receipt will be prepared by paraprofessionals. Using the paraprofessional rate of $90 per hour, the USPTO estimates that the respondent cost burden for these items will be $191,469,600. The USPTO estimates that the remaining items in this collection will be prepared by associate attorneys in private firms. Using the professional hourly rate of $304 per hour for associate attorneys in private firms, the USPTO estimates $313,241,600 per year for salary costs associated with respondents for the other items in this information collection. The total respondent cost burden is estimated to be $504,711,200 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Information Disclosure Statements—Paper	2 hours	423,000	846,000
eIDS (Information Disclosure Statements)	2 hours	47,000	94,000
Transmittal Form	2 hours	1,039,500	2,079,000
Petition for Extension of Time under 37 CFR 1.136(a)	6 minutes	189,000	18,900
Petition for Extension of Time under 37 CFR 1.136(b)	30 minutes	54	27
Express Abandonment Under 37 CFR 1.138	12 minutes	13,825	2,765
Petition for Express Abandonment to Avoid Publication Under 1.138(c)	12 minutes	500	100
Disclaimers	12 minutes	15,000	3,000
Request for Expedited Examination of a Design Application	6 minutes	130	13
Notice of Appeal	12 minutes	16,500	3,300
Information Disclosure Citation in a Patent	2 hours	1,830	3,660
Petition for Revival of an Application for Patent Abandoned Unavoidably	8 hours	585	4,680
Petition for Revival of an Application for Patent Abandoned Unintentionally	1 hour	6,950	6,950
Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing.	1 hour	2,400	2,400
Requests to Access, Inspect and Copy	12 minutes	18,650	3,730
Deposit Account Order Form	12 minutes	1,160	232
Certificates of Mailing/Transmission	1 minute, 48 seconds	590,000	17,700
Statement Under 37 CFR 3.73(b)	12 minutes	19,450	3,890
Non-publication Request	6 minutes	31,500	3,150
Rescission of Previous Non-publication Request (35 U.S.C. § 122(b)(2)(B)(ii)) and, if applicable, Notice of Foreign Filing (35 U.S.C. § 122(b)(2)(B)(iii)).	6 minutes	525	53
Electronic Filing System (EFS) Copy of Application for Publication	2 hours, 30 minutes	1,000	2,500
Copy of File Content Showing Redactions	4 hours	12	48
Copy of the Applicant or Patentee's Record of the Application (including copies of the correspondence, list of the correspondence, and statements verifying whether the record is complete or not).	1 hour	235	235
Request for Continued Examination (RCE) Transmittal	12 minutes	56,000	11,200
Request for Oral Hearing Before the Board of Patent Appeals and Interferences	12 minutes	750	150
Request for Deferral of Examination 37 CFR 1.103(d)	12 minutes	53	11
Request for voluntary publication or republication	12 minutes	70	14
Applicant Initiated Interview Request Form	21 minutes	1,600	560
Petition for Request for Documents in a Form Other Than That Provided by 1.19	1 hour	50	50
Petitions under 37 CFR 1.17(f) include: Petition to Accord a Filing Date under 1.57(a). Petition to Accord a Filing Date under 1.153(e). Petition for Decision on a Question Not Specifically Provided For. Petition to Suspend the Rules.	4 hours	3,300	13,200
Petitions under 37 CFR 1.17(g) include: Petition to Access an Assignment Record. Petition for Access to an Application. Petition for Expungement and Return of Information. Petition to Suspend Action in an Application.	2 hours	3,600	7,200
Petitions under 37 CFR 1.17(h) include existing petition not covered in any collection:. Petition for Accepting Color Drawings or Photographs. Petition for Entry of a Model or Exhibit. Petition to Withdraw an Application from Issue. Petition to Defer Issuance of a Patent.	1 hour	10,400	10,400
Request for Processing of Replacement Drawings to Include the Drawings in Any Patent Application Publication.	1 hour	50	50
Processing Fee Under 37 CFR 1.17(i) Transmittal	5 minutes	500	40
Petition Fee Under 37 CFR 1.17(f),(g) and (h) Transmittal	5 minutes	17,300	1,384
Request to Retrieve Electronic Priority Application(s) Under 37 CFR 1.55(d)	8 minutes	36,800	4,784
Authorization to Permit Access to Application by Participating Offices Under 37 CFR 1.14(h).	6 minutes	21,000	2,100
Petition for Express Abandonment to Obtain a Refund	12 minutes	3,000	600
Pre-Appeal Brief Request for Review	30 minutes	3,200	1,600
Request for Corrected Filing Receipt	5 minutes	25,000	2,000
Request for Corrected Filing Receipt (electronic)	5 minutes	2,050	164
Petition to Make Special Under Accelerated Examination Program	12 hours	500	6,000
Total		2,604,029	3,157,840

Estimated Total Annual (non-hour) Respondent Cost Burden: $156,933,477. There are no capital start-up or maintenance costs associated with this information collection. However, this collection does have record keeping costs, postage costs, and filing fees.

When submitting the information in this collection electronically, the applicant is strongly urged to retain a copy of the file submitted to the USPTO as evidence of authenticity and to keep the acknowledgment receipt as clear evidence that the file was received by the USPTO on the date noted. The

USPTO estimates that it will take 5 seconds (0.001 hours) to print and retain a copy of the eIDS, the EFS application for publication and the request for corrected filing receipt submissions, and that approximately 50,050 submissions per year (47,000 eIDS, 1,000 EFS, and 2,050 corrected filing receipt) will use this option, for a total of 50 hours per year for printing this receipt. Using the paraprofessional rate of $90 per hour, the USPTO estimates that the record keeping cost associated with this collection will be $4,500 per year.

The public may submit the paper forms and petitions in this collection to the USPTO by mail through the United States Postal Service. If the submission is sent by first-class mail, the public may also include a signed certification of the date of mailing in order to receive credit for timely filing. Therefore, the USPTO estimates that up to 2,553,979 submissions per year may be mailed to the USPTO at an average first-class postage cost of 63 cents, for a total postage cost of $1,609,007.

There is also annual (non-hour) cost burden in the way of filing fees associated with this collection. The total estimated filing costs of $155,319,970 are calculated in the accompanying chart:

Item	Responses (a)	Filing fee ($) (b)	Total non-hour cost burden (a) × (b) (c)
Submission of an Information Disclosure Statement (IDS) under 37 CFR 1.97(c) or (d)	42,200	$180.00	$7,596,000.00
Transmittal forms	1,039,500	None	0
One month extension of time under 37 CFR 1.136(a)	60,270	120.00	7,232,400.00
One month extension of time under 37 CFR 1.136(a) (small entity)	23,503	60.00	1,410,180.00
Two month extension of time under 37 CFR 1.136(a)	31,225	450.00	14,051,250.00
Two month extension of time under 37 CFR 1.136(a) (small entity)	12,891	225.00	2,900,475.00
Three month extension of time under 37 CFR 1.136(a)	32,724	1,020.00	33,378,480.00
Three month extension of time under 37 CFR 1.136(a) (small entity)	16,413	510.00	8,370,630.00
Four month extension of time under 37 CFR 1.136(a)	3,370	1,590.00	5,358,300.00
Four month extension of time under 37 CFR 1.136(a) (small entity)	2,267	795.00	1,802,265.00
Five month extension of time under 37 CFR 1.136(a)	2,163	2,160.00	4,672,080.00
Five month extension of time under 37 CFR 1.136(a) (small entity)	4,174	1,080.00	4,507,920.00
Extension of time under 37 CFR 1.136(b)	54	None	0
Express Abandonment under 37 CFR 1.138	13,825	None	0
Petition for express abandonment to avoid publication under 37 CFR 1.138(c))	500	130.00	65,000.00
Statutory Disclaimer	11,250	130.00	1,462,500.00
Statutory Disclaimer (small entity)	3,750	65.00	243,750.00
Requests for Expedited Examination of a design application	130	900.00	117,000.00
Notice of Appeal	12,570	500.00	6,285,000.00
Notice of Appeal (small entity)	3,930	250.00	982,500.00
Information Disclosure Citations	1,830	None	0
Petition to Revive Unavoidably Abandoned Application	250	500.00	125,000.00
Petition to Revive Unavoidably Abandoned Application (small entity)	335	250.00	83,750.00
Petition to Revive Unintentionally Abandoned Application	3,700	1,500.00	5,550,000.00
Petition to Revive Unintentionally Abandoned Application (small entity)	3,250	750.00	2,437,500.00
Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing.	1,440	1,300.00	1,872,000.00
Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing—Small Entity.	960	650.00	624,000.00
Requests to Access, Inspect and Copy	18,650	None	0
Deposit Account Order Form	1,160	None	0
Certificates of Mailing/Transmission	590,000	None	0
Statement Under 37 CFR 3.73(b)	19,450	None	0
Non-publication Request	31,500	None	0
Rescission of Non-publication Request	525	None	0
Electronic Filing System (EFS) Copy of Application for Publication	1,000	None	0
Electronic Filing System (EFS) Copy of Application for Voluntary Publication or Republication	70	430.00	30,100.00
Copy of File Content Showing Redactions	12	None	0
Copy of the Applicant or Patentee's Record of the Application (including copies of the correspondence, list of the correspondence, and statements verifying whether the record is complete or not).	235	None	0
Request for Continued Examination (RCE) Transmittal	44,800	790.00	35,392,000.00
Request for Continued Examination (RCE) Transmittal (small entity)	11,200	395.00	4,424,000.00
Request for an Oral Hearing	600	1,000.00	600,000.00
Request for an Oral Hearing (small entity)	150	500.00	75,000.00
Processing fee for deferral of examination	53	430.00	22,790.00
Request for voluntary publication or republication	70	130.00	9,100.00
Applicant initiated interview request form	1,600	None	0
Petition for request for documents in a form other than that provided by 1.19	50	130.00	6,500.00
Petitions under 37 CFR 1.17(f) include: Petition to Accord a Filing Date under 1.57(a). Petition to Accord a Filing Date under 1.153(e). Petition for Decision on a Question Not Specifically Provided For. Petition to Suspend the Rules.	3,300	400.00	1,320,000.00
Petitions under 37 CFR 1.17(g) include: Petition to Access an Assignment Record. Petition for Access to an Application.	3,600	200.00	720,000.00

Item	Responses (a)	Filing fee ($) (b)	Total non-hour cost burden (a) × (b) (c)
Petition for Expungement and Return of Information. Petition to Suspend Action in an Application.			
Petitions under 37 CFR 1.17(h) include existing petition not covered in any collection: Petition for Accepting Color Drawings or Photographs. Petition for Entry of a Model or Exhibit. Petition to Withdraw an Application from Issue. Petition to Defer Issuance of a Patent.	10,400	130.00	1,352,000.00
Request for processing of replacement drawings to include the drawings in any patent application publication.	50	130.00	6,500.00
Processing fee under 37 CFR 1.17(l) transmittal	500	130.00	65,000.00
Petition Fee Under 37 CFR 1.17(f),(g) and (h) Transmittal	17,300	None	0
Request to retrieve electronic priority application(s) under 37 CFR 1.55(d)	36,800	None	0
Authorization to permit access to application by participating offices under 37 CFR 1.17(h)	21,000	None	0
Petition for express abandonment to obtain a refund	3,000	None	0
Pre-Appeal Brief Request for Review (filed with the Notice of Appeal)	2,400	None	0
Pre-Appeal Brief Request for Review (filed later than the Notice of Appeal)	800	130.00	104,000.00
Correction Request Form	25,000	None	0
Correction Request Form (electronic)	2,050	None	0
Petition to Make Special Under Accelerated Examination Program	500	130.000 ...	65,000.00
Total	2,176,299	.....	155,319,970.00

The USPTO estimates that the total (non-hour) respondent cost burden for this collection in the form of record keeping costs, postage costs, and filing fees is $156,933,477.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: May 22, 2006.

Susan K. Brown,

Records Officer, USPTO, Office of the Chief Information Officer, Architecture, Engineering and Technical Services, Data Architecture and Services Division.

[FR Doc. E6–8241 Filed 5–26–06; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission (Commission).

DATE AND TIME: Tuesday, June 27, 2006, commencing at 10 a.m.

PLACE: 1155 21st Street, NW., Washington, DC, Lobby Level Hearing Room (Room 1000).

STATUS: Open.

MATTERS TO BE CONSIDERED: Public Hearing on the Issue of What Constitutes a Board of Trade Located Outside of the United States Under Section 4(a) of the Commodity Exchange Act.

CONTACT PERSONS AND ADDRESSES: Requests to appear and supporting materials should be mailed to the Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC 20581, attention Office of the Secretariat; transmitted by facsimile at 202–418–5521; or transmitted electronically to *secretary@cftc.gov*. Reference should be made to ''What Constitutes a Board of Trade Located Outside of the United States.'' For substantive questions on requests to appear and supporting materials, please contact David P. Van Wagner, Chief Counsel, (202) 418–5481; or Duane Andresen, Special Counsel, (202) 418–5429, Division of Market Oversight.

SUPPLEMENTARY INFORMATION: On May 3, 2006, the Commission directed its staff to initiate a formal process to define what constitutes ''a board of trade, exchange, or market located outside the United States, its territories, or possessions'' as that phrase is used in section 4(a) of the Commodity Exchange Act (CEA). In furtherance of that process, the Commission hereby announces that it will hold a public hearing to commence on Tuesday, June 27, 2006, at 10 a.m., at the Commission's headquarters in Washington, DC. An agenda, including specific topics and issues to be discussed, will be published as the hearing date approaches. All individuals or organizations wishing to appear before the Commission must submit to the Secretariat, at the above address, a request to appear. Such requests must be received by June 12, 2006, and must include the name of the individual appearing; the entity that he or she represents, if any; a concise statement of interest and qualifications; and a brief summary or abstract of his or her statement. The Commission will invite a representative number of individuals or organizations to appear at the hearing from those submitting requests to appear. A transcript of the hearing will be made and entered into the Commission's public comment files, which will remain open for the receipt of written comments until July 12, 2006.

The Commission believes that providing interested members of the public with an opportunity to appear before it, respond to questions, and address diverse viewpoints will enhance its decision-making as it progresses in the formal process of

defining what constitutes a board of trade located outside the United States under CEA Section 4(a).

Issued in Washington, DC, on May 25, 2006, by the Commission.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 06–4996 Filed 5–25–06; 3:58 pm]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 245. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 245 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: June 1, 2006.

FOR FURTHER INFORMATION CONTACT: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 244. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

Dated: May 23, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, DoD.

BILLING CODE 5001–06–M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
THE ONLY CHANGES IN CIVILIAN BULLETIN 245 ARE UPDATES TO THE RATES FOR MIDWAY ISLAND AND WAKE ISLAND.				
ALASKA				
ADAK	120	79	199	07/01/2003
ANCHORAGE [INCL NAV RES]				
05/01 - 09/15	170	93	263	05/01/2006
09/16 - 04/30	95	85	180	05/01/2006
BARROW	159	95	254	05/01/2002
BETHEL	125	78	203	05/01/2006
BETTLES	135	62	197	10/01/2004
CLEAR AB	80	55	135	09/01/2001
COLD BAY	90	73	163	05/01/2002
COLDFOOT	135	71	206	10/01/1999
COPPER CENTER				
05/01 - 09/30	129	75	204	04/01/2006
10/01 - 04/30	89	71	160	04/01/2006
CORDOVA				
05/01 - 09/30	95	74	169	05/01/2006
10/01 - 04/30	85	72	157	04/01/2005
CRAIG				
04/15 - 09/14	125	67	192	04/01/2006
09/15 - 04/14	95	64	159	04/01/2006
DEADHORSE	95	67	162	05/01/2002
DELTA JUNCTION	90	82	172	04/01/2006
DENALI NATIONAL PARK				
06/01 - 08/31	122	66	188	04/01/2006
09/01 - 05/31	70	61	131	04/01/2006
DILLINGHAM	114	69	183	06/01/2004
DUTCH HARBOR-UNALASKA	121	84	205	04/01/2006
EARECKSON AIR STATION	80	55	135	09/01/2001
EIELSON AFB				
05/01 - 09/15	169	88	257	04/01/2006
09/16 - 04/30	75	79	154	04/01/2006
ELMENDORF AFB				
05/01 - 09/15	170	93	263	05/01/2006
09/16 - 04/30	95	85	180	05/01/2006
FAIRBANKS				
05/01 - 09/15	169	88	257	04/01/2006
09/16 - 04/30	75	79	154	04/01/2006
FOOTLOOSE	175	18	193	06/01/2002
FT. GREELY	90	82	172	04/01/2006
FT. RICHARDSON				
05/01 - 09/15	170	93	263	05/01/2006
09/16 - 04/30	95	85	180	05/01/2006
FT. WAINWRIGHT				
05/01 - 09/15	169	88	257	04/01/2006
09/16 - 04/30	75	79	154	04/01/2006
GLENNALLEN				
05/01 - 09/30	129	75	204	04/01/2006

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
10/01 - 04/30	89	71	160	04/01/2006
HAINES	90	69	159	04/01/2006
HEALY				
06/01 - 08/31	122	66	188	04/01/2006
09/01 - 05/31	70	61	131	04/01/2006
HOMER				
05/15 - 09/15	139	80	219	05/01/2006
09/16 - 05/14	79	74	153	05/01/2006
JUNEAU				
05/01 - 09/30	129	89	218	04/01/2006
10/01 - 04/30	79	84	163	04/01/2006
KAKTOVIK	165	86	251	05/01/2002
KAVIK CAMP	150	69	219	05/01/2002
KENAI-SOLDOTNA				
05/01 - 08/31	129	92	221	04/01/2006
09/01 - 04/30	79	87	166	04/01/2006
KENNICOTT	189	85	274	04/01/2005
KETCHIKAN				
05/01 - 09/30	135	82	217	04/01/2005
10/01 - 04/30	98	78	176	04/01/2005
KING SALMON				
05/01 - 10/01	225	91	316	05/01/2002
10/02 - 04/30	125	81	206	05/01/2002
KLAWOCK				
04/15 - 09/14	125	67	192	04/01/2006
09/15 - 04/14	95	64	159	04/01/2006
KODIAK				
05/01 - 09/30	123	91	214	04/01/2006
10/01 - 04/30	99	88	187	04/01/2006
KOTZEBUE				
05/15 - 09/30	151	90	241	05/01/2006
10/01 - 05/14	135	89	224	05/01/2006
KULIS AGS				
05/01 - 09/15	170	93	263	05/01/2006
09/16 - 04/30	95	85	180	05/01/2006
MCCARTHY	189	85	274	04/01/2005
METLAKATLA				
05/30 - 10/01	98	48	146	05/01/2002
10/02 - 05/29	78	47	125	05/01/2002
MURPHY DOME				
05/01 - 09/15	169	88	257	04/01/2006
09/16 - 04/30	75	79	154	04/01/2006
NOME	125	86	211	05/01/2006
NUIQSUT	180	53	233	05/01/2002
PETERSBURG	80	62	142	06/01/2005
POINT HOPE	130	70	200	03/01/1999
POINT LAY	105	67	172	03/01/1999
PORT ALSWORTH	135	88	223	05/01/2002
PRUDHOE BAY	95	67	162	05/01/2002
SEWARD				

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
05/01 - 09/30	171	79	250	04/01/2006
10/01 - 04/30	69	69	138	04/01/2006
SITKA-MT. EDGECUMBE				
05/01 - 09/30	119	75	194	04/01/2006
10/01 - 04/30	99	73	172	04/01/2006
SKAGWAY				
05/01 - 09/30	135	82	217	04/01/2005
10/01 - 04/30	98	78	176	04/01/2005
SLANA				
05/01 - 09/30	139	55	194	02/01/2005
10/01 - 04/30	99	55	154	02/01/2005
SPRUCE CAPE				
05/01 - 09/30	123	91	214	04/01/2006
10/01 - 04/30	99	88	187	04/01/2006
ST. GEORGE	129	55	184	06/01/2004
TALKEETNA	100	89	189	07/01/2002
TANANA	125	86	211	05/01/2006
TOGIAK	100	39	139	07/01/2002
TOK	90	65	155	05/01/2006
UMIAT	180	107	287	04/01/2005
UNALAKLEET	79	80	159	04/01/2003
VALDEZ				
05/01 - 10/01	129	80	209	04/01/2006
10/02 - 04/30	79	75	154	04/01/2006
WASILLA				
05/01 - 09/30	134	84	218	04/01/2006
10/01 - 04/30	80	79	159	04/01/2006
WRANGELL				
05/01 - 09/30	135	82	217	04/01/2005
10/01 - 04/30	98	78	176	04/01/2005
YAKUTAT	110	68	178	03/01/1999
[OTHER]	80	55	135	09/01/2001
AMERICAN SAMOA				
AMERICAN SAMOA	122	73	195	12/01/2005
GUAM				
GUAM (INCL ALL MIL INSTAL)	135	90	225	06/01/2005
HAWAII				
CAMP H M SMITH	149	100	249	05/01/2006
EASTPAC NAVAL COMP TELE AREA	149	100	249	05/01/2006
FT. DERUSSEY	149	100	249	05/01/2006
FT. SHAFTER	149	100	249	05/01/2006
HICKAM AFB	149	100	249	05/01/2006
HONOLULU (INCL NAV & MC RES CTR)	149	100	249	05/01/2006
ISLE OF HAWAII: HILO	112	93	205	05/01/2006
ISLE OF HAWAII: OTHER	150	95	245	05/01/2006
ISLE OF KAUAI	188	102	290	05/01/2006
ISLE OF MAUI	159	95	254	05/01/2006
ISLE OF OAHU	149	100	249	05/01/2006
KEKAHA PACIFIC MISSILE RANGE FAC	188	102	290	05/01/2006
KILAUEA MILITARY CAMP	112	93	205	05/01/2006

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
LANAI	175	130	305	05/01/2006
LUALUALEI NAVAL MAGAZINE	149	100	249	05/01/2006
MCB HAWAII	149	100	249	05/01/2006
MOLOKAI	153	95	248	05/01/2006
NAS BARBERS POINT	149	100	249	05/01/2006
PEARL HARBOR [INCL ALL MILITARY]	149	100	249	05/01/2006
SCHOFIELD BARRACKS	149	100	249	05/01/2006
WHEELER ARMY AIRFIELD	149	100	249	05/01/2006
[OTHER]	72	61	133	01/01/2000
MIDWAY ISLANDS				
MIDWAY ISLANDS				
INCL ALL MILITARY	100	45	145	06/01/2006
NORTHERN MARIANA ISLANDS				
ROTA	129	91	220	05/01/2006
SAIPAN	121	94	215	05/01/2006
TINIAN	85	80	165	06/01/2005
[OTHER]	55	72	127	04/01/2000
PUERTO RICO				
BAYAMON				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
CAROLINA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
FAJARDO [INCL CEIBA & LUQUILLO]	82	54	136	01/01/2000
FT. BUCHANAN [INCL GSA SVC CTR,				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
HUMACAO	82	54	136	01/01/2000
LUIS MUNOZ MARIN IAP AGS				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
MAYAGUEZ	85	59	144	01/01/2000
PONCE	96	69	165	01/01/2000
ROOSEVELT RDS & NAV STA	82	54	136	01/01/2000
SABANA SECA [INCL ALL MILITARY]				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
SAN JUAN & NAV RES STA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
[OTHER]	62	57	119	01/01/2000
VIRGIN ISLANDS (U.S.)				
ST. CROIX				
04/15 - 12/14	135	92	227	05/01/2006
12/15 - 04/14	187	97	284	05/01/2006
ST. JOHN				
04/15 - 12/14	163	98	261	05/01/2006
12/15 - 04/14	220	104	324	05/01/2006

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ST. THOMAS						
04/15 - 12/14	240		105		345	05/01/2006
12/15 - 04/14	299		111		410	05/01/2006
WAKE ISLAND						
WAKE ISLAND	152		15		167	06/01/2006

[FR Doc. 06–4914 Filed 5–26–06; 8:45am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Air Force

Local Redevelopment Authority And Available Surplus Buildings And Land At Four Lakes Communications Station, Located In Cheney, WA

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

SUMMARY: This notice provides information regarding the surplus property at Four Lakes Communications Station in Cheney, Washington.

FOR FURTHER INFORMATION: Contact Mr. Thomas B. Kempster, Special Assistant, Air Force Real Property Agency, 1700 North Moore Street, Suite 2300, Arlington, VA 22209–2802, telephone (703) 696–5532.

SUPPLEMENTARY INFORMATION: This surplus property is available under the provisions of the Federal Property and Administrative Services Act of 1949 as amended (40 U.S.C. 501 *et seq.*) and the Base Closure Community Redevelopment and Assistance Act of 1994.

Notice of Surplus Property: Pursuant to paragraph (7) (B) of section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421), the following information regarding the surplus property described herein.

Surplus Property Description: Land: The property consists of 63 acres of land in two adjacent parcels and a 93 acre line-of-sight easement. Buildings/Structures: 11 buildings containing 67,890 sq ft.

Expressions of Interest: Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure and Community Redevelopment and Homeless Assistance Act of 1994, state and local governments, representatives of the homeless, and other interested parties located in the vicinity of Four Lakes Communications Station, Cheney, WA shall submit to Mr. Thomas B. Kempster, Special Assistant, Air Force Real Property Agency, 1700 North Moore Street, Suite 2300, Arlington, VA 22209–2802, a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice shall describe the need of the government, representative, or party concerned, for the desired surplus property. The date by which expressions of interest must be submitted shall be ninety (90) days from the date of publication of this notice.

Bao-Anh Trinh, DAF,

Air Force Federal Register Liaison Officer.

[FR Doc. E6–8224 Filed 5–26–06; 8:45 am]
BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Local Redevelopment Authority and Available Surplus Buildings and Land at Buckley Annex, Located in Denver, CO

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

SUMMARY: This notice provides information regarding the surplus property at Buckley Annex in Denver, Colorado and information about the local redevelopment authority that has been established to plan the reuse of the Buckley Annex. The administrative building on this property is located at 6760 E. Irvington Place, Denver, CO 80230.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Thomas B. Kempster, Special Assistant, Air Force Real Property Agency, 1700 North Moore Street, Suite 2300, Arlington, VA 22209–2802, telephone (703) 696–5532.

SUPPLEMENTARY INFORMATION: This surplus property is available under the provisions of the Federal Property and Administrative Services Act of 1949 as amended (40 U.S.C. 501 *et seq.*) and the Base Closure Community Redevelopment and Assistance Act of 1994.

Notice of Surplus Property: Pursuant to paragraph (7)(B) of section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421), the following information regarding the surplus property described herein.

Local Redevelopment Authority: The local redevelopment authority for the Buckley Annex, Denver, CO for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990 as amended is the Lowry Economic Redevelopment Authority. All inquiries should be addressed to Mr. Thomas O. Markham, Executive Director, 555 Uinta Way, Denver, CO 80230, telephone 303–343–0276.

Surplus Property Description: Land: The property consists of 72 acres of land. Buildings/Structures: 6 buildings containing 638,347 sq ft.

Expressions of Interest: Pursuant to paragraph 7(C) of section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure and Community Redevelopment

and Homeless Assistance Act of 1994, state and local governments, representatives of the homeless, and other interested parties located in the vicinity of Buckley Annex, Denver, CO shall submit to Mr. Thomas O. Markham, Executive Director, 555 Uinta Way, Denver, CO 80230, a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice shall describe the need of the government, representative, or party concerned, for the desired surplus property. Pursuant to paragraph 7(C) of section 2905(b), the Lowry Economic Redevelopment Authority shall assist interested parties in evaluating the surplus property for the intended use, and publish in a newspaper of general circulation within Colorado, the date by which expressions of interest must be submitted.

Bao-Anh Trinh,

DAF, Air Force Federal Register Liaison Officer.

[FR Doc. E6–8225 Filed 5–26–06; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Local Redevelopment Authority and Available Surplus Buildings and Land at General Mitchell Air Reserve, Milwaukee, WI

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

SUMMARY: This notice provides information regarding the surplus property at General Mitchell Air Reserve in Milwaukee, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Thomas B. Kempster, Special Assistant, Air Force Real Property Agency, 1700 North Moore Street, Suite 2300, Arlington, VA 22209–2802, telephone (703) 696–5532.

SUPPLEMENTARY INFORMATION: This surplus property is available under the provisions of the Federal Property and Administrative Services Act of 1949 as amended (40 U.S.C. 501 *et. seq.*) and the Base Closure Community Redevelopment and Assistance Act of 1994.

Notice of Surplus Property: Pursuant to paragraph (7)(B) of section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Pub. L. 103–421), the following information regarding the surplus property described herein.

Surplus Property Description: Land: The property consists of 102 acres of land. Buildings/Structures: 85 buildings containing 294,137 sq ft. Majority of space is used for maintenance, production and warehousing comprising a total of 224,795 square feet. The fire training facility and access to that facility is not available for transfer.

Expressions Of Interest: Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure and Community Redevelopment and Homeless Assistance Act of 1994, state and local governments, representatives of the homeless, and other interested parties located in the vicinity of General Mitchell Air Reserve Station, Milwaukee, WI shall submit to Mr. Thomas B. Kempster, Special Assistant, Air Force Real Property Agency, 1700 North Moore Street, Suite 2300, Arlington, VA 22209–2802, a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice shall describe the need of the government, representative, or party concerned, for the desired surplus property. The date by which expressions of interest must be submitted shall be ninety (90) days from the date of publication of this notice.

Bao-anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E6–8231 Filed 5–26–06; 8:45 am]

BILLING CODE 5001–04–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Local Redevelopment Authority and Available Surplus Buildings and Land at Onizuka Air Force Station, Located in Sunnyvale, CA

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

SUMMARY: This notice provides information regarding the surplus property at Onizuka Air Force Station in Sunnyvale, California and information about the local redevelopment authority that has been established to plan the reuse of the Onizuka Air Force Station. The property is located at the intersection of Highway 101 and California State Route 237.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Thomas B. Kempster, Special Assistant, Air Force Real Property Agency, 1700 North Moore Street, Suite 2300, Arlington, VA 22209–2802, telephone (703) 696–5532.

SUPPLEMENTARY INFORMATION: This surplus property is available under the provisions of the Federal Property and Administrative Services Act of 1949 as amended (40 U.S.C. 501 *et seq.*) and the Base Closure Community Redevelopment and Assistance Act of 1994.

Notice of Surplus Property: Pursuant to paragraph (7)(B) of section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Pub. L. 103–421), the following information regarding the surplus property described herein.

Local Redevelopment Authority: The local redevelopment authority for the Onizuka Air Station, Sunnyvale, CA for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990 as amended, is the Office of the City Manager. All inquiries should be addressed to Ms. Coryn Campbell, Office of the City Manager, 456 West Olive Avenue, Sunnyvale, CA 94066, telephone 408–730–7739.

Surplus Property Description: Land: The property consists of approximately 18 acres of land and 3 acres of easement. Buildings/Structures: 24 buildings containing 570,926 sq ft.

Expressions of Interest: Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure and Community Redevelopment and Homeless Assistance Act of 1994, state and local governments, representatives of the homeless, and other interested parties located in the vicinity of Onizuka Air Force Station, Sunnyvale, CA shall submit to the Office of the City Manager, 456 West Olive Avenue, Sunnyvale, CA 94086, a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice shall describe the need of the government, representative, or party concerned, for the desired surplus property. Pursuant to paragraph 7(C) of Section 2905(b), the Office of the City Manager shall assist interested parties in evaluating the surplus property for the intended use, and publish in a newspaper of general circulation within California, the date

by which expressions of interest must be submitted.

Bao-Anh Trinh,

DAF, Air Force Federal Register Liaison Officer.

[FR Doc. E6–8232 Filed 5–26–06; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent to Grant a Partially Exclusive Patent License

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Part 404 of Title 37, code of Federal Regulations, which implements Public Law 96–517, as amended, the Department of the Air Force announces its intention to grant Aman Data, a Limited Liability Corporation of Nevada, having a place of business at Las Vegas, Nevada, a partially exclusive license in any right, title and interest the Air Force has in:

a. U.S. Patent No. 5,365,425, issued 15 Nov 1994, entitled ''Method and System for Measuring Management Effectiveness'' by Michael J. Torma, Bernard W. Galing, Robert J. Palmer, and Suzanne K.S. West.

b. U.S. Patent No. 5,373,236, issued 13 Dec 1994, entitled ''Highly Accurate Zero Crossings for Frequency Determination'' by David C. Tsui, James B.Y. Tsui, and James N. Hedge.

c. U.S. Patent No. 5,383,184, issued 17 Jan 1995, entitled ''Multi-Speaker Conferencing over Narrowband Channels'' by Terrence G. Champion.

d. U.S. Patent No. 5,453,835, issued 26 Sep 1995, entitled ''Multichannel Acousto-Optic Correlator for Time Delay Computation'' by Michael J. Ward and Christopher W. Keefer.

e. U.S. Patent No. 5,485,312, issued 16 Jan 1996, entitled ''Optical Pattern Recognition System and Method for Verifying the Authenticity of a Person, Product or Thing'' by Joseph L. Horner, Bahram Javidi, and John F. Walkup.

f. U.S. Patent No. 5,493,444, issued 20 Feb 1996, entitled ''Photorefractive Two-Beam Coupling Nonlinear Joint Transform Correlator'' by Jehad Khoury, Charles L. Woods, Peter D. Gianino, and Mark Cronin-Golomb.

g. U.S. Patent No. 5,457,685, issued 10 Oct 1995, entitled ''Multi-Speaker Conferencing over Narrowband Channels'' by Terrence G. Champion.

h. U.S. Patent No. 5,465,221, issued 07 Nov 1995, entitled ''Automated Process Planning for Quality Control Inspection'' by Francis L. Merat, Kavous Roumina, Steven M. Ruegsegger, and Robert B. DelValle.

i. U.S. Patent No. 5,574,824, issued 12 Nov 1996, entitled ''Analysis/Synthesis-Based Microphone Array Speech Enhancer with Variable Signal Distortion'' by Raymond E. Slyh, Randolph L. Moses and Timothy R. Anderson.

j. U.S. Patent No. 5,617,233, issued 01 Apr 1997, entitled ''Transparent Optical Node Structure'' by Raymond K. Boncek.

k. U.S. Patent No. 5,640,429, issued 17 Jun 1997, entitled ''Multi-Channel Non-Gaussian Receiver and Method'' by James H. Michels and Muralidhar Rangaswamy.

l. U.S. Patent No. 5,666,518, issued 09 Sep 1997, entitled ''Pattern Recognition by Simulated Neural-Like Networks'' by Eric J. Jumper.

m. U.S. Patent No. 5,675,521, issued 07 Oct 1997, entitled ''Multichip Module Analyzer'' by Douglas J. Holzhauer, Dale W. Richards, Ian R. Grosse, Daniel D. Corkill and Prasanna Katragadda.

n. U.S. Patent No. 5,684,577, issued 04 Nov 1997, entitled ''Satellite Terminal Warning System'' by Sidney W. Kash.

o. U.S. Patent No. 5,694,602, issued 02 Dec 1997, entitled ''Weighted System and Method for Spatial Allocation of a Parallel Load'' by Bradley J. Smith.

p. U.S. Patent No. 5,705,959, issued 06 Jan 1998, entitled ''High Efficiency Low Distortion Amplification'' by James P. O'Loughlin.

q. U.S. Patent No. 5,708,587, issued 13 Jan 1998, entitled ''Microwave/Optical Transformation Method'' by Charmaine C. Franck, Jerome B. Franck and Angus McLeod.

r. U.S. Patent No. 5,736,978, issued 07 Apr 1998, entitled ''Tactile Graphics Display'' by Christopher J. Hasser.

s. U.S. Patent No. 5,742,045, issued 21 Apr 1998, entitled ''Apparatus Using Diode Laser Logic to Form a Configurable Optical Gate System'' by Michael A. Parker, Paul D. Swanson, Stuart I. Libby and James S. Kimmet.

t. U.S. Patent No. 5,748,846, issued 05 May 1998, entitled ''Neural Engineering Utility with Adaptive Algorithms'' by Larry V. Kirkland and Jere D. Wiederholt.

u. U.S. Patent No. 5,799,106, issued 25 Aug 1998, entitled ''Noise Immune Automated Contrast Control for Infrared Cameras'' by Jonathan M. Mooney, Jerry Silverman and Steven DiSalvo.

v. U.S. Patent No. 5,815,597, issued 29 Sep 1998, entitled ''Binary Encoding of Gray Scale Nonlinear Joint Transform Correlators'' by Joseph L. Horner and Bahram Javidi.

w. U.S. Patent No. 5,831,883, issued 03 Nov 1998, entitled ''Low Energy Consumption, High Performance Fast Fourier Transform'' by Bruce Suter and Kenneth Stevens.

x. U.S. Patent No. 5,903,390, issued 11 May 1999, entitled ''Two Port Nonlinear Joint Transform Correlator'' by Jonathan S. Kane, Charles L. Woods, Jehad Khoury and George Asimellis.

y. U.S. Patent No. 5,917,737, issued 29 Jun 1999, entitled ''Fourier Transform Mechanization Using One Bit Kernel Function'' by James B.Y. Tsui and John J. Schamus.

z. U.S. Patent No. 5,920,430, issued 06 Jul 1999, entitled ''Lensless Joint Transform Optical Correlator for Precision Industrial Positioning Systems'' by Thomas J. Grycewicz.

aa. U.S. Patent No. 5,931,959, issued 03 Aug 1999, entitled ''Dynamically Reconfigurable FPGA Apparatus and Method for Multiprocessing and Fault Tolerance'' by Kevin Anthony Kwiat.

bb. U.S. Patent No. 6,002,298, issued 14 Dec 1999, entitled ''Reconstituted Frequency Modulation with Feedforward Demodulator'' by Andrew J. Noga.

cc. U.S. Patent No. 6,064,332, issued 16 May 2000, entitled ''Proportional Guidance and Augmented Proportional Guidance'' by James R. Cloutier.

dd. U.S. Patent No. 6,072,444, issued 06 Jun 2000, entitled ''Adaptable HUD Mount'' by Fletcher A. Burns.

ee. U.S. Patent No. 6,085,251, issued 04 Jul 2000, entitled ''Implementing a Parallel File Transfer Protocol'' by Donald Joseph Fabozzi II.

ff. U.S. Patent No. 6,101,602, issued 08 Aug 2000, entitled ''Digital Watermarking by Adding Random, Smooth Patterns'' by Jiri Fridrich.

gg. U.S. Patent No. 6,134,425, issued 17 Oct 2000, entitled ''Digital Module RF Section'' by Frank Willwerth.

hh. U.S. Patent No. 6,148,399, issued 14 Nov 2000, entitled ''Advanced Instrument Controller'' by James C. Lyke.

ii. U.S. Patent No. 6,150,979, issued 21 Nov 2000, entitled ''Passive Ranging Using Global Positioning System'' by James B.Y. Tsui.

jj. U.S. Patent No. 6,167,330, issued 26 Dec 2000, entitled ''Dynamic Power Management of Systems'' by Mark H. Linderman.

kk. U.S. Patent No. 6,172,509, issued 09 Jan 2001, entitled ''Detecting Polyphase Machine Faults via Current Deviation'' by Marcus A. Cash and Thomas G. Habetler.

ll. U.S. Patent No. 6,195,328, issued 27 Feb 2001, entitled ''Block Adjustment of Synchronizing Signal for Phase-Coded Signal Tracking'' by James B.Y. Tsui, Dennis M. Akos and Michael H. Stockmaster.

mm. U.S. Patent No. 6,229,649, issued 08 May 2001, entitled ''Pseudo Deconvolution Method of Recovering a Distorted Optical Image'' by Charles L. Woods, Jehad Khoury and Jack Fu.

nn. U.S. Patent No. 6,240,471, issued 29 May 2001, entitled ''Data Transfer Interfacing'' by Erick A. Schlueter, Mark H. Linderman and Richard W. Linderman.

oo. U.S. Patent No. 6,244,536, issued 12 Jun 2001, entitled ''Air to Air Homing Missile Guidance'' by James R. Cloutier.

pp. U.S. Patent No. 6,247,145, issued 12 Jun 2001, entitled ''Automated Reliability and Maintainability Process'' by David C. Witteried.

qq. U.S. Patent No. 6,256,559, issued 03 Jul 2001, entitled ''Passive Altimeter Employing GPS Signals'' by James B.Y. Tsui.

rr. U.S. Patent No. 6,275,679, issued 14 Aug 2001, entitled ''Secure Communication Using Array Transmitter'' by Carl M. Elam and Dale A. Leavy.

ss. U.S. Patent No. 6,275,751, issued 14 Aug 2001, entitled ''Smart Docking Surface for

Space Serviceable Nano and Micro Satellites'' by Michael Stallard, Michael Obal and Alok Das.

tt. U.S. Patent No. 6,292,506, issued 18 Sep 2001, entitled ''Length Selectable Hardware Efficient Pseudorandom Code Generator'' by John F. Brendle, Jr., James P. Stephens, Sr., Michael A. Temple and Robert S. Parks.

uu. U.S. Patent No. 6,317,506, issued 13 Nov 2001, entitled ''Measuring the Characteristics of Oscillating Motion'' by Herbert F. Helbig and Daniel J. Burns.

vv. U.S. Patent No. 6,356,580, issued 12 Mar 2002, entitled ''Direct Sequence Spread Spectrum using Non-Antipodal Phase Shift Keying'' by James P. Stephens, Sr. and Robert S. Parks.

ww. U.S. Patent No. 6,363,496, issued 26 Mar 2002, entitled ''Apparatus and Method for Reducing Duration of Timeout Periods in Fault-Tolerant Distributed Computer Systems'' by Kevin Anthony Kwiat.

xx. U.S. Patent No. 6,377,242, issued 23 Apr 2002, entitled ''Display Pointer Tracking Device'' by Richard H. Sweed.

yy. U.S. Patent No. 6,401,082, issued 04 Jun 2002, entitled ''Autoassociative-Heteroassociative Neural Network'' by Claudia V. Kropas-Hughes, Steven K. Rogers, Mark E. Oxley and Matthew Kabrisky.

zz. U.S. Patent No. 6,463,341, issued 08 Oct 2002, entitled ''Orthogonal Functional Basis Method for Function Approximation'' by Yang Cao, Steven R. LeClair and Chun-Lung Philip Chen.

aaa. U.S. Patent No. 6,473,596, issued 29 Oct 2002, entitled ''Close Proximity Transmitter Interference Limiting'' by Keith A. Stamper and Mark C. Calcatera.

bbb. U.S. Patent No. 6,502,032, issued 31 Dec 2002, entitled ''GPS Urban Navigation System for the Blind'' by George H. Newman.

ccc. U.S. Patent No. 6,513,022, issued 28 Jan 2003, entitled ''Dynamic Programming Network'' by James S. Morgan.

ddd. U.S. Patent No. 6,553,333, issued 22 Apr 2003, entitled ''System and Method for Calculating Aerodynamic Performance of Tilting Wing Aircraft'' by Barth W. Shenk.

eee. U.S. Patent No. 6,567,042, issued 20 May 2003, entitled ''Acquisition through Circular Correlation by Partition for GPS C/A Code and P(Y) Code'' by David M. Lin and James B.Y. Tsui.

fff. U.S. Patent No. 6,567,566, issued 20 May 2003, entitled ''Techniques to Improve Binary Joint Transform Correlator, Particularly for Fingerprint Recognition'' by Thomas J. Grycewicz.

ggg. U.S. Patent No. 6,643,628, issued 04 Nov 2003, entitled ''Cellular Automata Neural Network Method for Process Modeling of Film-Substrate Interactions and Other Dynamic Processes'' by Allen G. Jackson, Mark D. Benedict and Steven R. LeClair.

hhh. U.S. Patent No. 6,653,970, issued 25 Nov 2003, entitled ''Multi-Static UAV Radar System for Mode-Adaptive Propagation Channels with Obscured Targets'' by Atindra K. Mitra.

iii. U.S. Patent No. 6,690,315, issued 10 Feb 2004, entitled ''Quadbit Kernel Function Algorithm and Receiver'' by John J. Schamus, James B.Y. Tsui, William S. McCormick and John M. Emmert.

jjj. U.S. Patent No. 6,704,887, issued 09 Mar 2004, entitled ''Method and Apparatus for Improved Security in Distributed-Environment Voting'' by Kevin A. Kwiat and Benjamin C. Hardekopf.

kkk. U.S. Patent No. 6,720,917, issued 13 Apr 2004, entitled ''Improved Acquisition for GPS C/A Code and P(Y) Code'' by David M. Lin and James B.Y. Tsui.

lll. U.S. Patent No. 6,727,841, issued 27 Apr 2004, entitled ''Position-Adaptive UAV Radar for Urban Environments'' by Atindra K. Mitra.

mmm. U.S. Patent No. 6,831,596, issued 14 Dec 2004, entitled ''Calibrating the Sampling Frequency of a GPS Receiver'' by James B.Y. Tsui and David M. Lin.

DATES: A license for these patents will be granted unless a written objection is received within fifteen (15) days from the date of publication of this Notice. Written objections should be sent to: Air Force Materiel Command Law Office, AFMCLO/JAZ, Building 11, Room 100, 2240 B Street, Wright-Patterson AFB OH 45433–7109.

FOR FURTHER INFORMATION CONTACT: Fred Sinder, Air Force Materiel Command Law Office, AFMCLO/JAZ, Building 11, Room 100, 2240 B Street, Wright-Patterson AFB OH 45433–7109. Telephone: (937) 255–2838; Facsimile (937) 255–3733.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E6–8234 Filed 5–26–06; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 29, 2006.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 23, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Revision.

Title: Fulbright-Hays Seminar Abroad Program.

Frequency: One time per application.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 400.

Burden Hours: 1,200.

Abstract: Application forms are to be used by applicants under the Fulbright-Hays Seminars Abroad Program which provides opportunities for U.S. educators to participate in short-term study seminars abroad in the subject areas of the social sciences, social studies and the humanities.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3076. When you access the information collection,

click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–8242 Filed 5–26–06; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0039; FRL–8175–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Reporting and Recordkeeping Requirements of the HCFC Allowance System, EPA ICR Number 2014.03, OMB Control Number 2060–0498

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before June 29, 2006.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2003–0039, to (1) EPA online using www.regulations.gov (our preferred method), by e-mail to: *a-and-r-docket@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Docket ID No. EPA–HQ–OAR–2003–0039, Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, 1200, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Cindy Axinn Newberg, 6205J, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: 202–343–9729; fax number: 202–343–2337; e-mail address: *newberg.cindy@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On December 20, 2005, (70 *FR* 75458), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received one comment during the comment period. However, the comment does not pertain to this ICR or its information collections and therefore no action has been taken on the comment in relation to the renewal of this ICR. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2003–0039, which is available for online viewing at *http://www.regulations.gov*, or in-person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is 202–566–1742.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: Reporting and Recordkeeping Requirements of the HCFC Allowance System.

ICR Numbers: 2014.03, OMB Control Number 2060–0498.

ICR Status: This ICR is scheduled to expire on June 30, 2006. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in Title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: In order to continue to meet its obligations under the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol) and the Clean Air Act Amendments of 1990 (CAAA), EPA maintains an allowance system for class II controlled substances or hydrochlorofluorocarbons (HCFCs). Under the Protocol, the U.S. is obligated to limit HCFC consumption (defined by the Protocol as production plus imports, minus exports) under a specific cap. The U.S. is also a signatory to amendments that froze HCFC production on January 1, 2004. EPA controls U.S. production and consumption of HCFCs by granting baseline allowances based on the historical activity levels of producers and importers coupled with a chemical-by-chemical phaseout. Since each allowance equals 1 kilogram of HCFC, EPA can monitor the quantity of HCFCs being produced, imported, exported, transformed, or destroyed. *There are two types of allowances:* consumption allowances and production allowances. Transfers of production and consumption allowances among producers and importers are allowed. Producers, importers, and exporters are required to submit to EPA quarterly reports of the quantity of HCFCs in each of their transactions; they are also required to report the quantity of HCFCs transformed or destroyed. EPA requires all producers, importers, and exporters maintain records such as Customs entry forms, bills of lading, sales records, and canceled checks to support their quarterly reports. The quarterly reports may be faxed or mailed to EPA and soon may be submitted electronically.

Reports are handled as confidential business information. EPA stores the submitted information in a computerized database designed to track allowance balances and transfer activities. When electronic reporting is available, EPA will change its guidance document. EPA uses collected information to ensure that the U.S. maintains compliance with the Protocol caps, to report annually to United Nations Environment Programme the U.S. activity in HCFCs, and to ensure that allowance holders are in compliance. The respondents are producers, importers, and exporters of HCFCs; and entities granted HCFC–141b exemption allowances.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information currently estimated to average less than one hour per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 70;

Frequency of response: quarterly, annually, semi-annually, or one-time only;

Estimated total average number of responses for each respondent: 342;

Estimated total annual burden hours: 1632 hours for respondents;

Estimated total annual cost: $138,963, which includes $138,123 labor costs, $0 capital/startup costs, and $840 annual O&M costs.

Changes in the Estimates: There is a decrease of 1660 hours in the total estimated burden and a decrease of $333,234 currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to adjustments that EPA made in its assumptions, the lack of additional capital costs necessary to meet the requirements, and certain inconsistencies found in the previous analysis. The previously approved ICR estimated 8 hours for a respondent to prepare and submit a report. This ICR estimates a respondent will need 4.5 hours. The 4.5-hour estimate is based on recent feedback from respondents under the program and is therefore more reliable and up-to-date than the eight-hour estimate. Additionally, in comparison with three years ago, respondents are more familiar with the reporting requirements and have improved their processes for collecting and documenting the information requested. Any capital costs required to comply with the requirements were met under the previous ICR. Lastly, while developing supporting materials for this ICR, EPA uncovered and corrected inconsistencies associated with the previous ICR. Consequently, the burden for the respondents has been greatly reduced for reporting the information.

The option of electronic reporting imposes a minimal change to burden estimates because of the start-up hours associated with electronic reporting that EPA estimates will be required during the three years of this ICR. While electronic reporting is eventually expected to reduce the reporting burden for respondents, as well as the O&M costs, the reduction will not be seen until after this ICR period.

Dated: May 17, 2006.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–8302 Filed 5–26–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2005–0041; FRL–8175–4]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Metal Furniture Surface Coating (Renewal), EPA ICR Number 1952.03, OMB Control Number 2060–0518

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before June 29, 2006.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2005–0041, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leonard Lazarus, Compliance Assessment and Media Programs Division (CAMPD), Office of Compliance, (2223A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–6369; fax number: (202) 564–0050; e-mail address: *lazarus.leonard@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 6, 2005 (70 FR 24020), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2005–0041, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center Docket is (202) 566–1514.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then

key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: NESHAP for Metal Furniture Surface Coating (Renewal).

ICR numbers: EPA ICR Number 1952.03, OMB Control Number 2060–0518.

ICR Status: This ICR is scheduled to expire on May 31, 2006. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Respondents are owners or operators of metal furniture surface coating operations. Owners or operators of the affected facilities described must make initial reports when a source becomes subject to the standard, conduct and report on a performance test, demonstrate and report on continuous monitor performance, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility. Semiannual reports of excess emissions are required. These notifications, reports, and records are essential in determining compliance; and are required, in general, of all sources subject to National Emission Standards for Hazardous Air Pollutants (NESHAP). Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintenance reports, and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 109 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of metal furniture surface coating operations.

Estimated Number of Respondents: 583.

Frequency of Response: Initially, Semiannually, On Occasion.

Estimated Total Annual Hour Burden: 190,408.

Estimated Total Annual Cost: $16,826,797, which includes $0 annualized capital startup costs, $700,000 annualized O&M costs, and $16,126,797 annualized labor costs.

Changes in the Estimates: There is an increase of 144,736 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. The increase in burden reflects the need for facilities to fully comply with the rule requirements. The increase in O&M costs is due to maintenance of equipment used to verify compliance with the rule requirements.

Dated: May 17, 2006.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–8304 Filed 5–26–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2005–0035; FRL–8175–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Publicly Owned Treatment Works (Renewal), EPA ICR Number 1891.04, OMB Control Number 2060–0428

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before June 29, 2006.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2005–0035, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gregory Fried, MC–2223A, Office of Compliance, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–7016; fax number: (202) 564–0050; e-mail address: *fried.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 6, 2005, (70 FR 24020), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2005–0035, which is

available for public viewing online at *http://www.regulations.gov,* in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: NESHAP for Publicly Owned Treatment Works (Renewal).

ICR Numbers: EPA ICR Number 1891.04, OMB Control Number 2060–0428.

ICR Status: This ICR is scheduled to expire on May 31, 2006. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Respondents subject to subpart VVV are owners or operators of waste water treatment processes and operations in the publicly owned treatment works (POTW) source category.

All ''new'' sources must be in compliance with the subpart VVV upon startup or the promulgation date, whichever is later. Owners and operators of affected sources are subject to the requirements of 40 CFR Part 63, Subpart A, the General Provisions, unless the regulation specifies otherwise.

For ''new'' sources constructed or reconstructed after the effective date of the relevant standard, subpart VVV requires that the source submit an application for approval of construction or reconstruction. The application is required to contain information on the air pollution control that will be used for each potential HAP emission point.

The information in the initial notification and the application for construction or reconstruction will enable enforcement personnel to identify the number of sources subject to the standards and to identify those sources that are already in compliance.

Generally, respondents are required to submit one-time reports of (1) start of construction for new facilities and (2) anticipated and actual start-up dates for new facilities. All records are to be maintained by the source for a period of at least five years.

The subpart VVV also requires ''new'' affected sources to submit a notification of compliance status. This notification must be signed by a responsible company official who certifies its accuracy and certifies that the source has complied with the standards. The notification of compliance status must be submitted within 180 days after the compliance date for the affected source.

Emission and control requirements for ''existing'' industrial POTWs are specified by the appropriate NESHAP(s) for the industrial user. In addition, there are no control requirements for ''existing'' non-industrial POTW treatment plants. Therefore, there are no subpart VVV recordkeeping or reporting requirements for ''existing'' sources covered by this ICR.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.15 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of publicly owned treatment works.

Estimated Number of Respondents: 6.

Frequency of Response: Initial, on occasion, semiannual and annual.

Estimated Total Annual Hour Burdens: 14.

Estimated Total Annual Cost: There are no annualized capital or O&M costs.

Changes in the Estimates: There is a decrease of 202 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to a correction. It is assumed that there are six (6) affected sources subject to subpart VVV, all of which are ''existing'' sources. Existing sources are only required to submit semiannual reports. The previous ICR also included burden associated with developing a design analysis and recordkeeping associated with equipment inspection and equipment monitoring, which are not required for existing sources.

Dated: May 17, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–8306 Filed 5–26–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8175–1]

Notice of Meeting of the EPA's Children's Health Protection Advisory Committee (CHPAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the next meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held June 20 and 21, 2006 at RESOLVE, Washington, DC. The CHPAC was created to advise the Environmental Protection Agency on science, regulations, and other issues relating to children's environmental health.

DATES: The Voluntary Children's Chemical Evaluation Program (VCCEP) task group will meet Tuesday June 20,

2006. The Plenary session will take place Wednesday June 21, 2006.

ADDRESSES: RESOLVE, 1255 23rd Street, NW., Suite 275, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Contact Carolyn Hubbard, Office of Children's Health Protection, USEPA, MC 1107A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564–2189, *hubbard.carolyn@epa.gov*.

SUPPLEMENTARY INFORMATION: The meetings of the CHPAC are open to the public. The VCCEP task group will meet Tuesday June 20, 2006 2 p.m to 5 p.m. The plenary CHPAC will meet on Wednesday June 21, 2006 8:30 a.m. to 5:30 p.m., with a public comment period at 11:45 a.m.

The plenary session will open with introductions and a review of the agenda and objectives for the meeting. Agenda items include a presentation on a best practices document on human subjects testing by EPA's National Exposure Research Lab (NERL), discussion and agreement on the VCCEP comment letter, and a presentation on approaches to protecting children from adverse health effects of chemicals with a focus on body burden, including what changes in public policy might be effective, what the right questions are to ask, and what public and private actions would be most useful. Draft agenda attached.

Access and Accommodations: For information on access or services for individuals with disabilities, please contact Carolyn Hubbard at 202–564–2189 or *hubbard.carolyn@epa.gov*. To request accommodation of a disability, please contact Carolyn Hubbard preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: May 22, 2006.

Carolyn Hubbard,

Designated Federal Official.

Children's Health Protection Advisory Committee

Resolve 1255 23rd Street NW., Suite 275, Washington, DC 20037, June 20–21, 2006

Draft Agenda

Tuesday June 20, 2006

2–5 p.m. Voluntary Children's Chemical Evaluation Program (VCCEP) Task Group Meeting

Wednesday, June 21, 2006

8:30 a.m. Welcome, Introductions, Review Meeting Agenda.
8:45 a.m. Review of CHPAC Operating Procedures.
9 a.m. Highlights of Recent OCHP Activities.
9:30 a.m. Best Practices for NERL Observational Human Research Studies.
10:30 a.m. Break.
10:45 a.m. VCCEP Comment Letter.
11:45 a.m. Public Comment.
12:15 p.m. Lunch.
1:45 p.m. VCCEP Comment Letter (continued).
2:45 p.m. Break.
3 p.m. Reducing Body Burden to Protect America's Children.
5 p.m. VCCEP Comment Letter (if needed).
5:30 p.m. Adjourn.

[FR Doc. E6–8301 Filed 5–26–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 13, 2006.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Richard N. Glendening, Pella, Iowa, individually and as trustee of the Richard Glendening Trust and the Linda Glendening Subchapter S Trust, and acting in concert with the Glendening Family (Richard and Mary Glendening, Pella, Iowa; Linda Glendening, Pella, Iowa; Kara and Nathan Busker, Oakland, New Jersey; Eric and Sanae Glendening, Terre Haute, Indiana; Erin Glendening, Pittsburgh, Pennsylvania; Brent and Mary Jaco, Galveston, Texas); to retain voting shares of Leighton Investment Company, Pella, Iowa, and thereby indirectly retain voting shares of Leighton State Bank, Pella, Iowa.

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. J. Chester Porter, Mount Washington, Kentucky; Spencer Access, LLC, Taylorsville, Kentucky, and the William G. Porter Revocable Trust; William G. Porter, Trustee, Sarasota, Florida, to acquire control of Porter Bancorp, Inc., Louisville, Kentucky, and thereby indirectly acquire control of PBI Bank, Louisville, Kentucky.

C. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Phillip Bray, as trustee of the Phillip Bray Trust, Cameron, Missouri, and Gladys Bray as trusteee of the Gladys Bray Trust, Cameron, Missouri, as husband and wife acting in concert; and Kenneth Bray and Margart Bray as co–trustees of the Kenneth Bray and Margaret Bray Trust, Cameron, Missouri, also acting in concert with Phillip and Gladys Bray, to retain voting shares of Farmers Bancshares, Inc., Maysville, Missouri, and thereby indirectly retain voting shares of Independent Farmers Bank, Maysville, Missouri.

Board of Governors of the Federal Reserve System, May 24, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–8244 Filed 5–26–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the

standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 23, 2006.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Trustmark Corporation, Jackson, Mississippi; to merge with Republic Bancshares of Texas, Inc., and thereby indirectly acquire voting shares of Republic National Bank, both of Houston, Texas.

Board of Governors of the Federal Reserve System, May 24, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–8243 Filed 5–26–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF THE TREASURY

United States Mint

FEDERAL RESERVE SYSTEM

Coin Users Group Forum

AGENCIES: United States Mint and Board of Governors of the Federal Reserve System.

ACTION: Notice of coin users group forum.

SUMMARY: Pursuant to the Presidential $1 Coin Act of 2005 (Pub. L. 109–145, 31 U.S.C. 5112(p)(3)(A)), the United States Mint and the Board of Governors of the Federal Reserve System (Board) announce a coin users group forum at which United States Mint and Board officials will have the opportunity to consult with leaders of businesses, agencies, and industries involved in the use and distribution of circulating coins, especially $1 coins.

Date of Forum: Thursday, June 8, 2006.

ADDRESSES: The United States Mint, 801 Ninth Street, NW., Washington, DC, Second floor

FOR FURTHER INFORMATION CONTACT: Mary Lhotsky, Office of External Relations and Communications, United States Mint, by calling (202) 354–7630 or by e-mail at *mlhotsky@usmint.treas.gov*, or Eugenie E. Foster, Division of Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve System, by calling (202) 736–5603 or by e-mail at *Eugenie.E.Foster@frb.gov.*

SUPPLEMENTARY INFORMATION: The Presidential $1 Coin Act of 2005 requires a redesign of the $1 coin as a multi-year circulating commemorative in the model of the 50 State Quarters® program. The legislation requires the Secretary of the Treasury (Secretary) and the Board to consult regularly with a coin users group. The purpose of these consultations is to obtain individual perspectives from various stakeholders representing businesses, agencies, and other interested parties. This information will assist the Secretary and the Board in accurately gauging the demand for coins and anticipating and eliminating obstacles to the easy and efficient distribution and circulation of $1 coins as well as other coins. Holding these forums is one of several measures that 31 U.S.C. 5112(p) now requires the Secretary and the Board to take to ensure that adequate supplies of coins are available for commerce and collectors. This is not a public meeting, and attendance is by invitation only. Persons interested in attending the forum should use the contact information in this notice.

Authority: 31 U.S.C. 5112(p)(3)(A)

Dated: May 22, 2006.

David A. Lebryk,

Deputy Director, United States Mint.

By order of the Board of Governors of the Federal Reserve System, May 23, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 06–4905 Filed 5–26–06; 8:45 am]

BILLING CODE 6210–01–P; 4810–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of a Health Care Policy and Research Special Emphasis Panel (SEP) meeting.

A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and Quality (AHRQ), and agree to be available, to conduct on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Substantial segments of the upcoming SEP meeting listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). An R01 Competing Continuation application will be reviewed and discussed at this meeting. These discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

SEP Meeting on: R01 Competing Continuation Teleconference Call Review.

Date: May 31, 2006, 11 a.m.–11:30 a.m. (Open on May 31 from 11 a.m. to 11:15 a.m. and closed for the remainder of the meeting).

Place: John M Eisenberg Building, 540 Gaither Road, Suite 2020, Rockville, Maryland 20850.

Contact Person: Anyone wishing to obtain a roster of members, agenda or minutes of the non-confidential portions of this meeting should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 540 Gaither Road, Room 2038, Rockville, Maryland 20850, Telephone (301) 427–1554.

Agenda items for this meeting are subject to change as priorities dictate.

This notice is being published less than 15 days prior to the May 31 meeting, due to time constraints of reviews and funding cycles.

Dated: May 22, 2006.

Carolyn M. Clancy,

Director

[FR Doc. 06–4984 Filed 5–25–06; 2:17 pm]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panels (SEP): Intervention Research Grants To Promote the Health of People With Disabilities (Panels B and C), Request for Applications (RFA) Number DD06–004

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Intervention Research Grants to Promote the Health of People with Disabilities (Panels B and C), RFA Number DD06–004.

Time and Date:

8 a.m.–8:15 a.m., June 20, 2006 (Open).
8:15 a.m.–5 p.m., June 20, 2006 (Closed).
8 a.m.–8:15 a.m., June 21, 2006 (Open).
8:15 a.m.–5 p.m., June 21, 2006 (Closed).

Place: Atlanta Marriott Suites Midtown, 35 14th Street, Atlanta, GA 30309, Telephone (404) 876–8888.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: To conduct expert review of scientific merit of research applications: Intervention Research Grants to Promote the Health of People with Disabilities (Panels B and C), RFA–DD06–004.

For Further Information Contact: Juliana Cyril, Ph.D., Scientific Review Administrator, CDC, 1600 Clifton Road, NE, Mail Stop D–72, Atlanta, GA, 30333, Telephone (404) 639–4639.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: May 19, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–8240 Filed 5–26–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: The Nursing Scholarship Program (NSP): NEW

The Nursing Scholarship Program (NSP or ''Nursing Scholarship'') is a competitive Federal program which awards scholarships to individuals for attendance at schools of nursing. The scholarship consists of payment of tuition, fees, other reasonable educational costs, and a monthly support stipend. In return, the students agree to provide a minimum of 2 years of full-time clinical service (or an equivalent part-time commitment, as approved by the NSP) at a health care facility with a critical shortage of nurses.

Nursing scholarship recipients must be willing and are required to fulfill their NSP service commitment at a health care facility with a critical shortage of nurses in the United States (U.S.), the District of Columbia, the Commonwealth of Puerto Rico, the Territory of Guam, the Commonwealth of the Northern Marianas, the U.S. Virgin Islands, the Territory of American Samoa, the Republic of Palau, or the Republic of the Marshall Islands of the Federated States of Micronesia. Students who are uncertain of their commitment to provide nursing in a health care facility with a critical shortage of nurses in the U.S. are advised not to participate in this program.

The NSP needs to collect data to determine an applicant's eligibility for the program to monitor a participant's continued enrollment in a school of nursing, to monitor a participant's compliance with the NSP service obligation, and to obtain data on its program to ensure compliance with legislative mandates and prepare annual reports to Congress. The following information will be collected: (1) From the applicants and/or the schools, general applicant and nursing school data such as full name, location, tuition/fees, and enrollment status; (2) from the schools, on an annual basis, data concerning tuition/fees and student enrollment status; and, (3) from the participants and their health care facilities with a critical shortage of nurses, on a bi-annual basis, data concerning the participant's employment status, work schedule and leave usage.

The burden estimates are as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Application	3,500	1	3,500	1.25	4,375
Data Collection Worksheet	*300	1	300	.25	75
School Verification Form	*300	2	600	.25	150
Employment Certification Form	300	2	600	.25	150
Total	4,100		5,000		4,750

*Respondents for these forms are the academic institution for the applicant.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Kraemer, Desk Officer, Human Resources and Housing Branch, Office

of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: May 22, 2006.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. E6–8286 Filed 5–26–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Council on the National Health Service Corps; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given of the following meeting:

Name: National Advisory Council on the National Health Service Corps.

Dates and Times: June 28, 2006, 1 p.m.–5 p.m.; June 29, 2006, 9 a.m.–5 p.m.; and June 30, 2006, 9 a.m.–4:30 p.m.

Place: Embassy Suites DC Convention Center, 900 10th Street, NW., Washington, DC 20001.

Status: The meeting will be open to the public.

Agenda: The Council will be working on a report outlining some recommendations for the National Health Service Corps Program. Discussions will be focused on the impact of these recommendations on the program participants, communities served by these clinicians and in the administration of the program.

For Further Information Contact: Tira Robinson-Patterson, Division of National Health Service Corps, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8A–55, 5600 Fishers Lane, Rockville, MD 20857; telephone: (301) 594–4140.

Dated: May 22, 2006.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. E6–8285 Filed 5–26–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–24849]

Collection of Information Under Review by Office of Management and Budget: OMB Control Number 1625–0105

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB) to request an extension of their approval of the following collection of information: 1625–0105, Regulated Navigation Area; Reporting Requirements for Barges Loaded with Certain Dangerous Cargoes, Inland Rivers, Eighth Coast Guard District and the Illinois Waterway, Ninth Coast Guard District. Before submitting the ICR to OMB, the Coast Guard is inviting comments on our ICR described below.

DATES: Comments must reach the Coast Guard on or before July 31, 2006.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG–2006–24849] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICR are available through this docket on the Internet at *http://dms.dot.gov,* and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 6106 (Attn: Ms. Barbara Davis), 2100 2nd Street, SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Davis, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents; or telephone Ms. Renee V. Wright, Program Manager, Docket Operations, 202–493–0402, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to respond to this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov;* they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number [USCG–2006–24849], indicate the specific section of the document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Information Collection Request

Title: Regulated Navigation Area; Reporting Requirements for Barges Loaded with Certain Dangerous Cargoes, Inland Rivers, Eighth Coast Guard District and the Illinois Waterway, Ninth Coast Guard District.

OMB Control Number: 1625–0105.

Summary: The Coast Guard requires position and intended movement reporting, and fleeting operations reporting, from barges carrying certain dangerous cargoes (CDCs) in the inland rivers within the Eighth and Ninth Coast Guard Districts. 33 CFR 165.830 and 165.921.

Need: This information is used to ensure port safety and security and to ensure the uninterrupted flow of commerce.

Respondents: Owners, agents, masters, towing vessel operators, or persons in charge of barges loaded with CDCs or having CDC residue operating on the inland rivers located within the Eighth and Ninth Coast Guard Districts.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 911 hours to 1,179 hours a year.

Dated: May 19, 2006.

R. T. Hewitt,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E6–8217 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–24850]

Collection of Information Under Review by Office of Management and Budget: OMB Control Numbers 1625–0066 and 1625–0069

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB) to request their approval of a revision of the following collections of information: (1) 1625–0066, Vessel and Facility Response Plans (Domestic and Int'l), and Additional Response Requirements for Prince William Sound, Alaska; and (2) 1625–0069, Ballast Water Management for Vessels with Ballast Tanks Entering U.S. Waters. Before submitting the ICRs to OMB, the Coast Guard is inviting comments on them as described below.

DATES: Comments must reach the Coast Guard on or before July 31, 2006.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG–2006–24850] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICRs are available through this docket on the Internet at *http://dms.dot.gov,* and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 6106 (Attn: Ms. Barbara Davis), 2100 2nd Street SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Davis, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents; or telephone Ms. Renee V. Wright, Program Manager, Docket Operations, 202–493–0402, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to respond to this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov;* they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number [USCG–2006–24850], indicate the specific section of the document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8–1/2 by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Information Collection Request

1. *Title:* Vessel and Facility Response Plans (Domestic and Int'l), and Additional Response Requirements for Prince William Sound, Alaska.

OMB Control Number: 1625–0066.

Summary: The Oil Pollution Act of 1990 (OPA 90), 33 U.S.C. 2701 to 2761, required the development of Vessel and Facility Response Plans to minimize the impact of oil spills. OPA 90 also required additional response requirements for Prince William Sound. Shipboard Oil Pollution Emergency

Plans are required of other vessels to minimize impacts of oil spills.

Need: This information is needed to ensure that vessels and facilities are prepared to respond in the event of an oil spill incident. The information will be reviewed by the Coast Guard to assess the effectiveness of the response plan.

Respondents: Owners and operators of vessels and facilities.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 137,199 hours to 220,559 hours a year.

2. *Title:* Ballast Water Management for Vessels with Ballast Tanks Entering U.S. Waters.

OMB Control Number: 1625–0069.

Summary: The information is needed to carry out the reporting requirements of 16 U.S.C. 4711 regarding the management of ballast water, to prevent the introduction and spread of aquatic nuisance species into U.S. waters.

Need: The information is needed to ensure compliance with the requirements in 33 CFR part 151, subparts C and D. The information will also be used for research and periodic reporting to Congress.

Respondents: Owners and operators of certain vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 106,193 hours to 60,769 hours a year.

Dated: May 19, 2006.

R.T. Hewitt,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers, and Information Technology.

[FR Doc. E6–8220 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–24734]

National Boating Safety Advisory Council; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the National Boating Safety Advisory Council (NBSAC). NBSAC advises the Coast Guard on matters related to recreational boating safety.

DATES: Application forms should reach us on or before September 1, 2006.

ADDRESSES: You may request an application form by writing to Commandant, Office of Boating Safety (G–PCB–1), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling 202–267–1077; or by faxing 202–267–4285. Send your application in written form to the above street address. This notice and the application form are available on the Internet at *http://dms.dot.gov*; the application form is also available at *http://www.uscgboating.org/nbsac/nbsac.htm*.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanne Timmons, Executive Director of NBSAC, telephone 202–267–1077, fax 202–267–4285.

SUPPLEMENTARY INFORMATION: The National Boating Safety Advisory Council (NBSAC) is a Federal advisory committee under the Federal Advisory Committee Act, 5 U.S.C. App. 2. It advises the Coast Guard regarding regulations and other major boating safety matters. NBSAC's 21 members consist of: 7 representatives of State officials responsible for State boating safety programs; 7 representatives of recreational boat and associated equipment manufacturers; and 7 representatives of national recreational boating organizations and the general public, at least 5 of whom are representatives of national recreational boating organizations. Members are appointed by the Secretary of the Department of Homeland Security.

NBSAC normally meets twice each year at a location selected by the Coast Guard. When attending meetings of the Council, members are provided travel expenses and per diem.

We will consider applications received in response to this notice for the following seven positions that expire or become vacant in December 2006: two representatives of State officials responsible for State boating safety programs, two representatives of recreational boat and associated equipment manufacturers, and three representatives of national recreational boating organizations. The positions from the general public are not open for consideration this year.

Applicants are considered for membership on the basis of their particular expertise, knowledge, and experience in recreational boating safety. Prior applicants should submit an updated application to ensure consideration for the vacancies announced in this notice. Each member serves for a term of up to 3 years. Members may serve consecutive terms.

In support of the policy of the U.S. Coast Guard on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Dated: May 18, 2006.

F.J. Sturm,

Captain, U.S. Coast Guard, Acting Director of Inspections and Compliance.

[FR Doc. E6–8300 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD08–06–020]

Houston-Galveston Navigation Safety Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of meetings.

SUMMARY: The Houston-Galveston Navigation Safety Advisory Committee (HOGANSAC) and its working groups will meet to discuss waterway improvements, aids to navigation, area projects impacting safety on the Houston Ship Channel, and various other navigation safety matters in the Galveston Bay area. All meetings will be open to the public.

DATES: The next meeting of HOGANSAC will be held on Tuesday, June 27, 2006, at 9 a.m. The meeting of the Committee's working groups will be held on Thursday, June 8, 2006, at 9 a.m. Members of the public may present written or oral statements at either meeting. Requests to make oral presentations or distribute written materials should reach the Coast Guard five (5) working days before the meeting at which the presentation will be made. Requests to have written materials distributed to each member of the committee in advance of the meeting should reach the Coast Guard at least ten (10) working days before the meeting at which the presentation will be made.

ADDRESSES: The full Committee will be held at the Houston Pilot's, 8150 South Loop East, Houston, TX 77017, (713–645–9620). The working groups meeting will be held at the West Gulf Maritime Association, Portway Plaza, 1717 East Loop, Suite 200, Houston, Texas 77029, (713–678–7655). This notice is available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Commander Jerry Torok, Executive Secretary of HOGANSAC, telephone 713–671–5164, or Lieutenant Junior Grade Kevin Cooper, Assistant to the Executive Secretary of HOGANSAC, telephone 713–678–9001, e-mail *kcooper@grugalveston.uscg.mil.* Written

materials and requests to make presentations should be sent to Commanding Officer, Sector Houston/Galveston, Attn: LTJG Cooper, 9640 Clinton Drive, Houston, TX 77029.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 (Pub. L. 92–463, 86 Stat. 770, as amended).

Agendas of the Meetings

Houston-Galveston Navigation Safety Advisory Committee (HOGANSAC). The tentative agenda includes the following:

(1) Opening remarks by the Committee Sponsor (RADM Whitehead) or the Committee Sponsor's representative, Executive Director (CAPT Kaser) and Chairperson (Ms. Patricia Clark).

(2) Approval of the February 23, 2006 minutes.

(3) Old Business:

(a) Dredging subcommittee.

(b) Aids to Navigation (AtoN) Knockdown Working Group.

(c) Navigation Operations subcommittee report.

(d) Area Maritime Security Committee Liaison's report.

(e) Technology subcommittee report.

(f) Deep draft Entry Facilitation subcommittee.

(g) Harbor of Safe Refuge subcommittee.

(h) Port Coordination Team Updates.

(i) Limited Visibility Working Group.

(j) Liquefied Natural Gas Working Group.

(k) National Harbor Safety Committee Report.

(4) New Business:

(a) NOAA Port Updates presentation—Alan Bunn.

(b) Other presentations.

Working Groups Meeting. The tentative agenda for the working groups meeting includes the following:

(1) Presentation by each working group of its accomplishments and plans for the future.

(2) Review and discuss the work completed by each working group.

(3) Put forth any action items for consideration at full committee meeting.

Procedural

Working groups have been formed to examine the following issues: dredging and related issues, electronic navigation systems, AtoN knockdowns, impact of passing vessels on moored ships, boater education issues, facilitating deep draft movements, mooring infrastructure, and safe refuge during hurricanes. Not all working groups will provide a report at this session. Further, working group reports may not necessarily include discussions on all issues within the particular working group's area of responsibility. All meetings are open to the public. At the Chair's discretion, members of the public may make presentations, oral or written, at either meeting. Requests to make oral or written presentations should reach the Coast Guard five (5) working days before the meeting at which the presentation will be made. If you would like to have written materials distributed to each member of the committee in advance of the meeting, you should send your request along with fifteen (15) copies of the materials to the Coast Guard at least ten (10) working days before the meeting at which the presentation will be made.

Information on Services for the Handicapped

For information on facilities or services for the handicapped or to request special assistance at the meetings, contact the Executive Secretary or Assistant to the Executive Secretary at the location indicated under **ADDRESSES** as soon as possible.

Dated: May 19, 2006.

R. F. Duncan,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. E6–8299 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed new information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the use of a metropolitan firefighter demographic questionnaire to collect data to determine firefighter demographics of metropolitan fire departments. For the purposes of this study, metropolitan fire departments are defined as fire departments that have a minimum of 400 fully paid career firefighters. In addition to the 400 career firefighters, some of the metropolitan fire departments also have volunteer firefighters.

SUPPLEMENTARY INFORMATION: The U.S. Fire Administration (USFA) [1] receives many requests from fire service organizations and the general public for information related to the demographics of firefighters, including gender, race and ethnicity breakdowns, and the number of firefighters holding chief officer and line officer positions. The USFA also has a need for this information to guide programmatic decisions, to ensure that the demographic make up of firefighters attending National Fire Academy training courses is comparable to that of fire departments across the United States, and to encourage and recruit women and minorities to join the fire service. Finally, recommendations for the creation of a fire department database included the collection of information related to demographics, capabilities and activities of fire departments. This recommendation came out of a Blue Ribbon Panel's review of the USFA—initiated by FEMA Director James Lee Witt in the spring of 1998. As a result of those recommendations, the USFA created the National Fire Department Census with which more than 24,500 fire departments have registered. As a continuation of this effort, USFA plans to look at a snapshot of the demographics of firefighters in metropolitan fire departments.

Collection of Information

Title: Metropolitan Firefighter Demographics Study.

Type of Information Collection: New Collection.

OMB Number: 1660–NW17.

Form Numbers: None.

Abstract: Data products and reports exist that contain fragmented or estimated information about firefighter demographics, but there is no single reference source today that aggregates this data to provide an accurate profile of firefighters on a per department basis. The USFA receives many requests for information related to firefighters, including gender, race and ethnicity, as well as the number of firefighters

[1] The USFA is currently being transferred to the newly created Preparedness Directorate of the Department of Homeland Security. During this transition FEMA, also part of the Department of Homeland Security, will continue to support this program as the new Directorate stands up. Ultimately this data collection will be transferred to the Preparedness Directorate.

holding chief officer and line officer positions. The USFA is working to identify the demographic make up of metropolitan fire departments in the United States to provide input for program planning and to inform stakeholders of the demographic composition of firefighters. The database will be used by USFA to guide programmatic decisions and provide the Fire Service and the public with information about firefighter demographics at an aggregate level. Fire departments are able to complete the demographic firefighter questionnaire by filling out a paper form and faxing the completed form, or sending it in a return envelope.

Affected Public: Federal, State, local government, and career fire departments.

Estimated Total Annual Burden Hours: 39 Hours.

ANNUAL BURDEN HOURS

Project/activity (survey, form(s), focus group, worksheet, etc.)	Number of respondents (A)	Frequency of responses (B)	Burden hours per respondent (C)	Annual responses (A×B)	Total annual burden hours (A×B×C)
Questionnaire	115	1	.33 hrs (20 min)	115	39
Total	115	1	.33 hrs	115	39

Estimated Cost: The estimated costs to the government will be direct labor and associated overhead costs of $12,625. There would be no costs to the respondent other than the minimal direct labor cost of a single firefighter or emergency service worker taking a small amount of time to complete the firefighter demographic form and this would be applicable only to those fire departments and emergency service agencies employing career firefighters. The estimate of respondent costs for those career departments is computed as follows: Estimated number of forms multiplied by the national mean hourly rate of a firefighter of $18.95 multiplied by ⅓ (representing the estimated 20 minutes it takes to complete the firefighter demographic form). Using this equation, total estimated costs to respondents of $726.42 is derived (115 estimated firefighter demographic forms × $18.95 ×⅓ = 726.42). The average cost per firefighter demographic form is a minimal $6.32. The respondents are under no obligation to complete the form and may refuse to do so or stop at any time. As a result, the average cost to the respondent of $6.32 could easily not be incurred by refusing to fill out the firefighter demographic form.

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Comments must be submitted on or before July 31, 2006.

ADDRESSES: Interested persons should submit written comments to Chief, Records Management Section, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Contact Gayle Kelch, Statistician, United States Fire Administration, National Fire Data Center (301) 447–1154 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA–Information-Collections@dhs.gov*.

Dated: May 9, 2006.

Darcy Bingham,

Branch Chief, Information Resources Management Branch, Information Technology Services Division.

[FR Doc. E6–8250 Filed 5–26–06; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1640–DR]

Hawaii; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Hawaii (FEMA–1640–DR), dated May 2, 2006, and related determinations.

DATES: *Effective Date:* May 2, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 2, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Hawaii resulting from severe storms, flooding, landslides, and mudslides during the period of February 20 to April 2, 2006, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Hawaii.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas, as well as Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for

a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Acting Director, under Executive Order 12148, as amended, Michael Karl, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Hawaii to have been affected adversely by this declared major disaster:

City and County of Honolulu and Kauai County for Individual Assistance and Public Assistance.

All counties within the State of Hawaii are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program)

R. David Paulison,

Acting Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–8254 Filed 5–26–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1635–DR]

Missouri; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

DATES: *Effective Date:* May 12, 2006.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Missouri (FEMA–1635–DR), dated April 5, 2006, and related determinations.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Missouri is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 5, 2006:

St. Francois County for Public Assistance (already designated for Individual Assistance.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program)

R. David Paulison,

Acting Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–8253 Filed 5–26–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1624–DR]

Texas; Amendment No. 7 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas (FEMA–1624–DR), dated January 11, 2006, and related determinations.

DATES: *Effective Date:* May 14, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective May 14, 2006.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program)

R. David Paulison,

Acting Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–8252 Filed 5–26–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Alligator River National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of the Draft Comprehensive Conservation Plan and Environmental Assessment for Alligator River National Wildlife Refuge in Dare and Hyde Counties, North Carolina.

SUMMARY: The Fish and Wildlife Service announces that a Draft Comprehensive Conservation Plan and Environmental Assessment (Draft CCP/EA) for the Alligator River National Wildlife Refuge are available for review and comment. This Draft CCP/EA was prepared pursuant to the National Wildlife Refuge System Administration Act, as amended, and the National Environmental Policy Act. The Draft CCP/EA describes the Service's proposal for management of the refuge for 15 years.

DATES: Written comments must be received at the postal or electronic addresses listed below no later than June 29, 2006.

ADDRESSES: Requests for copies of the Draft CCP/EA should be addressed to: Bonnie Strawser, CCP, Alligator River National Wildlife Refuge, P.O. Box 1969, Manteo, North Carolina 27954; Telephone 252/473–1131, extension 230. Comments on the draft plan may be submitted to the above address or via electronic mail to: *bonnie_strawser@fws.gov.*

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), requires the Service to develop a plan for each refuge. The purpose in developing a comprehensive conservation plan is to provide refuge managers with a 15-year strategy for

achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, environmental education and interpretation.

The staffing and funding for Alligator River National Wildlife Refuge support both Alligator River and Pea Island National Wildlife Refuges as a complex.

Alternatives

The Service developed and analyzed three alternatives for managing the refuge and chose Alternative 2 as the proposed alternative.The proposed action is to adopt and implement a comprehensive conservation plan for the refuge that best achieves the refuge's purpose, vision, and goals; contributes to the National Wildlife Refuge System mission; addresses the significant issues and relevant mandates; and is consistent with principles of sound fish and wildlife management.

Alternative 1 is a proposal to maintain the current management. The refuge currently manages its impoundments intensively by managing water levels and vegetation to create optimum habitat for migrating waterfowl, shorebirds, wading birds, and aquatic organisms. It also manages marshes and pine forests with prescribed fire. The staff surveys waterfowl, shorebirds, and wading birds on a routine basis. The refuge allows the six priority public use activities: Hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. The staff conducts extensive environmental education and interpretation programs with the assistance of 10,000 hours of volunteer service every year.Tthe total complex staff consists of 26 positions, with 19.7 of these assigned to manage Alligator River Refuge. The staff manages the refuge from a rented building in Manteo, 10 miles east of the refuge.

Alternative 2, the proposed alternative, proposes moderate program increases. The refuge would continue to manage its impoundments intensively by managing water levels and vegetation to create optimum habitat for migrating waterfowl, shorebirds, wading birds, and aquatic organisms. The marshes and pine forests would be managed with prescribed fire. The staff would inventory and monitor fire-dependent habitats to document their conditions and assess the effectiveness of management. Waterfowl, shorebirds, and wading birds would be surveyed on a routine basis. The staff would also document the presence of wildlife species as they are found and document the density of invertebrates in moist-soil units. The refuge would allow the six priority public use activities: hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. The staff would conduct extensive environmental education and interpretation programs with the assistance of 12,000 hours of volunteer service every year. Programs would be conducted on the refuge and in the newly constructed visitor center. Under this alternative, the refuge staff would be increased by 7.05 positions, for a total of 26.75 positions to manage Alligator River Refuge. The staff would manage the refuge from a Service-owned building in Manteo, 10 miles east of the refuge.

Alternative 3 proposes substantial program increases. The refuge would continue to manage its impoundments intensively by managing water levels and vegetation to create optimum habitat for migrating waterfowl, shorebirds, wading birds, and aquatic organisms. It also would manage marshes and pine forests with prescribed fire and deciduous forests with thinning. The staff would inventory and monitor all habits to document their conditions and assess the effectiveness of management. All wildlife species would be surveyed on a routine basis. The staff would also document the presence of wildlife species as they are found and document the density of invertebrates in moist-soil units. The refuge would allow the six priority public use activities: hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. The staff would conduct extensive environmental education and interpretation programs with the assistance of 15,000 hours of volunteer service every year. The staff would conduct programs on the refuge and in the newly constructed visitor center. Under the alternative, the refuge staff would be increased by 17.75 positions, for a total of 37.45 positions to manage Alligator River Refuge. The staff would manage the refuge from a Service-owned building in Manteo, 10 miles east of the refuge.

Meetings will be held in Manns Harbor, North Carolina, to present the Draft CCP/EA to the public. Mailings, newspaper articles, and postings on the refuge website will be the avenues to inform the public of the dates and times of the meetings. After the review and comment period for the Draft CCP/EA, all comments will be analyzed and considered by the Service. All comments received from individuals on the Draft CCP/EA become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act and Service and Departmental policies and procedures.

Alligator River National Wildlife Refuge, in northeast North Carolina, consists of 152,260 acres in fee simple ownership. On the refuge, 38,533 acres are pond pine shrub pocosin, 30,400 acres are pond pine cane pocosin, 25,204 acres are brackish marsh, 12,236 acres are non-alluvial hardwood forest, 11,380 acres are mixed pine hardwood forest, and 8,468 acres are Atlantic white cedar swamp. These habitats support a variety of wildlife species, including red wolves, red-cockaded woodpeckers, waterfowl, shorebirds, wading birds, marsh birds, and neotropical migratory songbirds.

The refuge hosts more than 100,000 visitors annually who participate in hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: April 10, 2006.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. 06–4913 Filed 5–26–06; 8:45am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Delta and Breton National Wildlife Refuges

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a Comprehensive Conservation Plan and Environmental Assessment for Delta National Wildlife Refuge in Plaquemines Parish, Louisiana, and Breton National Wildlife Refuge in St. Bernard and Plaquemines Parishes, Louisiana.

SUMMARY: The Fish and Wildlife Service, Southeast Region, intends to gather information necessary to prepare a comprehensive conservation plan and environmental assessment pursuant to the National Environmental Policy Act

of 1969 and its implementing regulations.

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, requires the Service to develop a comprehensive conservation plan for each national wildlife refuge. The purpose in developing a comprehensive conservation plan is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

The purpose of this notice is to achieve the following:

(1) Advise other agencies and the public of our intentions, and

(2) Obtain suggestions and information on the scope of issues to include in the environmental document.

DATES: To ensure consideration, written comments must be received no later than June 29, 2006.

ADDRESSES: Comments, questions, and requests for more information regarding the planning process for Delta and Breton National Wildlife Refuges should be sent to: Refuge Manager, Delta and Breton National Wildlife Refuges, Southeast Louisiana National Wildlife Refuge Complex, 61389 Highway 434, Lacombe, Louisiana 70445. Comments may also be submitted electronically to: *Charlotte_Parker@fws.gov*; or by telephone: 985/882–2000.

SUPPLEMENTARY INFORAMTION: The comprehensive conservation planning process will consider many elements, including wildlife and habitat management, habitat protection and acquisition, wilderness preservation, public recreational activities, industrial use, and cultural resource preservation. Public input into this planning process is essential. Open house style meetings and focus group meetings will be held throughout the scoping phase of the planning process for each refuge. The Service will conduct a cultural resources overview study in support of the comprehensive conservation plan. The professional study will identify known sites on the refuge.

Special mailings, newspaper articles, and other media announcements will inform people of opportunities for written input throughout the planning process. Information on this process will be posted on the Internet at *http://southeastlouisiana.fws.gov.* All comments received from individuals become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's NEPA regulations [40 CFR 1506.6(f)].

Delta National Wildlife Refuge was established in 1935. Its 49,000 acres were formed by the deposition of sediment carried by the Mississippi River. The primary purpose of the refuge is to provide sanctuary and habitat for wintering waterfowl.

Breton National Wildlife Refuge was established in 1904 through executive order of President Theodore Roosevelt. It's the second-oldest refuge among the National Wildlife Refuge System. Its objectives are to provide sanctuary for nesting and wintering seabirds, to protect and conserve the wilderness character of the islands, and to provide sandy beach habitat for a variety of wildlife species.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: April 13, 2006.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. 06–4907 Filed 5–26–06; 8:45am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1320–EL, WYW172693]

Notice of Invitation for Coal Exploration License Application, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of invitation for Coal Exploration License Application, Cordero Mining Company, WYW172693, WY.

SUMMARY: Pursuant to section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.C. 201 (b), and to the regulations adopted as 43 CFR part 3410, all interested qualified parties, as provided in 43 CFR 3472.1, are hereby invited to participate with Cordero Mining Company on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Campbell County, WY:

T. 46 N., R. 71 W., 6th P.M., Wyoming
Sec. 4: Lot 8, 9, 16, 17;
Sec. 5: Lots 5–20;
Sec. 8: Lots 1–16;
Sec. 9: Lots 6–8;
Sec. 10: Lots 7–10;
Sec. 11: Lots 13–16;
Sec. 14: Lots 1–16;
Sec. 15: Lots 1–16;
Sec. 17: Lots 1–15;
T. 47 N., R. 71 W., 6th P.M., Wyoming
Sec. 7: Lots 6–11, 14–19;
Sec. 17: Lots 1–15, SW¼NW¼;
Sec. 18: Lots 5–20;
Sec. 19: Lots 5–20;
Sec. 20: Lots 1–16;
Sec. 21: Lots 4, 5, 12, 13;
Sec. 28: Lots 4, 5, 12, 13;
Sec. 29: Lots 1–16;
Sec. 30: Lots 5–20;
Sec. 31: Lots 5–19, SE¼SE¼;
Sec. 32: Lots 1–16;
Sec. 33: Lots 4, 5, 12, 13;
T. 47 N., R. 72 W., 6th P.M., Wyoming
Sec. 12: Lots 1–16;
Sec. 13: Lots 1, 2, 7–10, 15, 16;
Sec. 24: Lots 1, 2, 7–10, 15, 16.

Containing 11,216.65 acres, more or less.

DATES: Written Notice of Intent to Participate in Exploration License WYW172693 should be addressed to the attention of both of the following persons and must be received by them 30 days after publication of this Notice of Invitation in the **Federal Register**.

ADDRESSES: Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW172693): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, WY 82604. The written notice should be sent to the following addresses: Cordero Mining Company, c/o Kennecott Energy and Coal Company, Attn: Tom Suchomel, Caller Box 3009, Gillette, WY 82717, and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, Attn: Mavis Love, PO Box 1828, Cheyenne, WY 82003.

SUPPLEMENTARY INFORMATION: All of the coal in the above-described land consists of unleased Federal coal within the Powder River Basin Known Coal Leasing Area. The purpose of the exploration program is to obtain supplemental geotechnical data from previous drilling programs and to assess the reserves contained in a potential lease. The proposed exploration

program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management.

This notice of invitation will be published in ''The News-Record'' of Gillette, WY, once each week for two consecutive weeks beginning the week of May 29, 2006, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Cordero Mining Company, as provided in the **ADDRESSES** section above, no later than thirty days after publication of this invitation in the **Federal Register**.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: April 12, 2006.

Michael Madrid,

Acting Deputy State Director, Minerals and Lands.

[FR Doc. E6–8260 Filed 5–26–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–930–5420–EU–D038, D039; DK–G06–0003; IDI–35462, IDI–35463]

Disclaimers of Interest in Lands, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Two applications have been filed by Robert P. Brown, Attorney at Law on behalf of Dale L. Becker and Evelyn M. Becker (personal representative of the estate of Donald S. Becker, deceased), for recordable disclaimers of interest in certain lands by the United States.

DATES: Comments or protests to this action should be received by August 28, 2006.

ADDRESS: Comments or protests must be filed with: State Director (ID933), Bureau of Land Management, 1387 S. Vinnell Way, Boise, ID 83709

FOR FURTHER INFORMATION CONTACT: Cathie Foster, BLM, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, (208) 373–3863 or Ron Grant, BLM, Cottonwood Field Office, 1 Butte Drive, Cottonwood, Idaho 83522, (208) 962–3680.

SUPPLEMENTARY INFORMATION: Pursuant to Section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), Robert P. Brown, has filed two applications on behalf of Dale L. Becker and Evelyn M. Becker (personal representative of the estate of Donald S. Becker, deceased) requesting the United States issue recordable disclaimers of interest.

One disclaimer of interest has been requested for the following described property, to wit:

The 87.5 acres fronting government lots 3 and 4 in section 8 shown on a Record of Survey in T. 34 N., R. 5 W., sections 5, 6, and 8, Boise Meridian, Idaho, executed by Terry Golding, PLS 7379, plat signed August 29, 2003 and on file in the BLM, Idaho State Office in case file IDI–35463.

Another disclaimer of interest has been requested for the following described property to wit:

The 10.2 acres fronting government lot 2 in section 8 shown on a Record of Survey in T. 34 N., R. 5 W., sections 5, 6, and 8, Boise Meridian, Idaho, executed by Terry Golding, PLS 7379, plat signed August 29, 2003 and on file in the BLM, Idaho State Office in case file IDI–35462.

Based on the applications and Record of Survey by Terry Golding, Idaho PLS 7379, plat signed August 29, 2003 and on file in the BLM, Idaho State Office in case file IDI–35463 and case file IDI–35462, the original 1872 survey by John B. David erroneously reported the location of the line of ordinary high water for the Snake River. We consider this erroneous location to be nonsubstantial and thus eligible for a disclaimer of interest according to the case law elements required for omitted lands. Therefore, the applications by Robert P. Brown for disclaimers from the United States will be approved if no valid objection is received. This action will clear a cloud on the title of Dale L. Becker's and Evelyn M. Becker's (personal representative of the estate of Donald S. Becker, deceased) land.

Comments, including names and street addresses of respondents will be available for public review at the Idaho State Office, Bureau of Land Management, 1387 S. Vinnell Way, Boise, Idaho during regular business hours 9 a.m. to 4 p.m. Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

Dated: April 17, 2006.

Jimmie Buxton,

Chief, Branch of Lands, Minerals and Water Rights, Resource Services Division.

[FR Doc. E6–8255 Filed 5–26–06; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–038–1220–AL; HAG 06–0135]

National Historic Oregon Trail Interpretive Center Advisory Board Meeting

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Meeting notice for National Historic Oregon Trail Interpretive Center Advisory Board.

SUMMARY: The National Historic Oregon Trail Interpretive Center Advisory Board will meet June 20, 2006, 8 a.m. to 12 p.m. (PDT) at the Best Western Sunridge Inn, One Sunridge Way, Baker City, Oregon.

Meeting topics will include a Center Update, Marketing, and other topics as may come before the board. The meeting is open to the public. Public comment is scheduled for 10 to 10:15 a.m.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the National Historic Oregon Trail Interpretive Center Advisory Board may be obtained from Debbie Lyons, Public Affairs Officer, Bureau of Land Management, Vale District Office, 100 Oregon Street, Vale, Oregon 97918, (541) 473–6218, e-mail: *Debra_Lyons@or.blm.gov*.

Dated: May 23, 2006.

Mike Hartwell,

Acting District Manager.

[FR Doc. E6–8233 Filed 5–26–06; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–090–5882–PH–EE01; HAG 06–0134]

Meeting Notice for the Eugene District, Bureau of Land Management (BLM) Resource Advisory Committees Under Section 205 of the Secure Rural Schools and Community Self Determination Act of 2000, Public Law 106–393

AGENCY: Bureau of Land Management.

SUMMARY: This notice is published in accordance with section 10(a)(2) of the

Federal Advisory Committee Act. Meeting notice is hereby given for the Eugene District BLM Resource Advisory Committee pursuant to section 205 of the Secure Rural Schools and Community Self Determination Act of 2000. Topics to be discussed by the Eugene BLM District Resource Advisory Committee include selection of a chairperson, public forum and proposed projects for funding in Fiscal Year 2007.

DATES: The Eugene BLM District Resource Advisory Committee will meet on the following dates: The Eugene BLM District Resource Advisory Committee will meet at the BLM Eugene District Office, 2890 Chad Drive, Eugene, Oregon 97440, 9 a.m. to 4:30 p.m., on July 13, 2006 and 9 a.m. to 4:30 p.m., on July 14, 2005, 9:00 a.m. to 4:30 p.m., on August 17, 2006 and 9 a.m. to 4:30 p.m., on August 18, 2005. The public forum will be held from 12:30–1 p.m. on all four days.

SUPPLEMENTARY INFORMATION: Pursuant to the Secure Rural Schools and Community Self Determination Act of 2000, five Resource Advisory Committees have been formed for western Oregon BLM districts that contain Oregon & California (O&C) Grant Lands and Coos Bay Wagon Road lands. The Secure Rural Schools and Community Self Determination Act of 2000 establishes a six-year payment schedule to local counties in lieu of funds derived from the harvest of timber on Federal lands, which have dropped dramatically over the past 10 years.

The Secure Rural Schools and Community Self Determination Act of 2000 creates a new mechanism for local community collaboration with Federal land management activities in the selection of projects to be conducted on Federal lands or that will benefit resources on Federal lands using funds under Title II of the Secure Rural Schools and Community Self Determination Act of 2000. The Eugene BLM District Resource Advisory Committees consist of 15 local citizens (plus six alternates) representing a wide array of interests.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the BLM Resource Advisory Committees may be obtained from Wayne Elliott, Designated Federal Official, Eugene District Office, P.O. Box 10226, Eugene, Oregon 97440, (541) 683–6600, or *wayne_elliott@or.blm.gov*.

Dated: May 22, 2006.

Mark Buckbee,

Acting Eugene District Manager.

[FR Doc. E6–8230 Filed 5–26–06; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–056–7122–EU–F152; N–79099]

Notice of Realty Action: Non-Competitive Sale in the Las Vegas Valley, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes to sell a 1.25 acre parcel of public land in the southwest portion of the Las Vegas Valley, Nevada, to the owner of lands adjoining the parcel. The adjoining private land owner has requested that the parcel be sold to him by non-competitive (direct) sale at not less than the appraised market value of the land.

DATES: On or before July 14, 2006, interested parties may submit comments concerning the proposed sale to the BLM Field Manager, Las Vegas Field Office, at the address stated below.

ADDRESSES: Las Vegas Field Office, Bureau of Land Management, 4701 N. Torrey Pines Drive, Las Vegas, NV 89130

FOR FURTHER INFORMATION CONTACT: Shawna Woods, Realty Specialist at (702) 515–5099.

SUPPLEMENTARY INFORMATION: Pursuant to the request of Mr. Scott Schroeder, the BLM proposes to sell the parcel of public land located in the southwest portion of the Las Vegas Metropolitan Area and further described below. The subject parcel contains 1.25 acres in the form of an isolated parcel resulting from the recent reduction in the width of the Blue Diamond Highway right-of-way. The highway right-of-way for Blue Diamond Highway was granted in 1960. The grant included the subject lands. In 1992, the Nevada Department of Transportation relinquished a portion of the right-of-way width (100 feet on both sides) for the highway. This action reduced the highway frontage to Mr. Schroeder's property and left a small parcel of public land between the highway and Mr. Schroeder's private land. Mr. Schroeder has requested the direct sale of the piece between his property and the highway in order to regain highway access. The majority of the 1.25 acre parcel is encumbered by several rights-of-way making the net usable area 0.1156 acre. The subject parcel, consisting of approximately 1.25 acres of land, would be sold at not less than the fair market value of $54,500 as determined by a BLM, reviewed and approved appraisal. The following described land in Clark County, Nevada, has been examined and found suitable for direct sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976 ((FLPMA) P.L. 94–579, as amended , 43 U.S.C. 1713) and the Southern Nevada Public Land Management Act (SNPLMA, P.L. 105–263) and 43 CFR 2711.3–3.

Mount Diablo Meridian, Nevada

T. 22 S., R 60 E.,

Section 19, SW¼NE¼NE¼SE¼NW¼.

The area described contains 1.25 acres in Clark County.

This proposed action is in conformance with the Las Vegas Resource Management Plan, approved on October 5, 1998. The plan has been reviewed and it is determined the proposed action conforms with land use plan decision LD–1 established in accordance with section 202 of FLPMA, as amended (43 U.S.C. 1713).

A direct sale to Mr. Scott Schroeder is being proposed, and is considered appropriate. 43 CFR 2711.3–3(a) states that ''Direct sales (without competition) may be utilized, when in the opinion of the authorized officer, a competitive sale is not appropriate and the public interest would be best served by a direct sale. Examples include but are not limited to: * * * (4) The adjoining ownership pattern and access indicate a direct sale is appropriate''. The land is not required for any Federal purpose. The sale will be made subject to the applicable provisions of FLPMA and the regulations of the Secretary of the Interior.

The minerals of no known value will be conveyed with this parcel. Acceptance of the offer to purchase will constitute an application for conveyance of these mineral interests. In conjunction with the final payment, the applicant will be required to pay a $50.00 non-refundable filing fee for processing the conveyance of the mineral interests of no known value which will be sold simultaneously with the surface interest.

When patented, title to the land will continue to be subject to the following:

1. A reservation of a right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945);

2. A reservation to the United States of oil and gas and salable minerals together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe;

3. Valid existing rights of record, including, but not limited to those

documented on the BLM public land records at the time of sale;

4. Rights for a railroad granted to Los Angeles and Salt Lake Railroad Company, its successors and assigns, by BLM right-of-way No.CC–014956, pursuant to the Act of February 15, 1901 (031 Stat 790; 43 U.S.C. 959);

5. Rights for an aerial telephone line granted to Central Telephone, its successors and assigns, by BLM right-of-way No.N–03983, pursuant to the Act of February 15, 1901 (031 Stat 790; 43 U.S.C. 959);

6. Rights for an overhead distribution powerline and substation granted to Nevada Power, its successors and assigns, by BLM right-of-way No. N–58888, pursuant to section 501 of FLPMA (43 U.S.C. 1761).

7. Rights for a temporary use area granted to Nevada Power with an expiration date of February 27, 2007, its successors and assigns, by BLM right-of-way No. N–58888–02, pursuant to section 501 of FLPMA (43 U.S.C. 1761).

8. Rights for a natural gas pipeline granted to the Southwest Gas Corporation, its successors and assigns, by BLM right-of-way No. N–60107, pursuant to the Act of February 25, 1920 (41 Stat. 437; 30 U.S.C. 185 Sec.28).

9. Rights for a highway granted to Nevada Department of Transportation, its successors and assigns, by BLM right-of-way No. Nev–012728, pursuant to the Act of August 27, 1958 (072 Stat. 892; 23 U.S.C. 107(D)).

The patentee, by accepting a patent, covenants and agrees to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the patentees or their employees, agents, contractors, or lessees, or any third-party, arising out of or in connection with the patentees' use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentees and their employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property which has already resulted or does hereafter result in: (1) Violations of Federal, State, and local laws and regulations that are now or may in the future become, applicable to the real property; (2) Judgments, claims, or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or State environmental laws, off, on, into or under land, property and other interests of the United States; (5) Activities by which solids or hazardous substances or wastes, as defined by Federal and State environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resource damages as defined by Federal and State law. This covenant shall be construed as running with the above described parcel of land patented or otherwise conveyed by the United States, and may be enforced by the United States in a court of competent jurisdiction.

No warranty of any kind, express or implied is given or will be given by the United States as to the title, physical condition or potential uses of the land proposed for sale. However, to the extent required by law, such land is subject to the requirements of section 120(h) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended (42 U.S. C. 9620(h)).

Publication of this notice in the **Federal Register** temporarily segregates the above described land from appropriation under the public land laws, including the mining laws. The segregative effect of this notice will terminate upon issuance of a patent or upon expiration of 270 days from the date of publication in the **Federal Register**, whichever occurs first (43 CFR 2711.1–2(d). The above described land was previously segregated from mineral entry under BLM case file number N–66364, with record notation as of October 19, 1998. This previous segregation will terminate upon publication of this notice in the **Federal Register**.

Detailed information concerning the proposed sale, including an environmental assessment and the approved appraisal report is available for review at the BLM Las Vegas Field Office at the address above. The Field Manager, BLM, Las Vegas Field Office, will review the comments of all interested parties concerning the sale. To be considered, comments must be received at the BLM Las Vegas Field Office on or before the date stated above in this notice for that purpose. Comments received during this process, including respondent's name, address, and other contact information, will be available for public review. Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, address, and other contact information from public review or disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. The BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. The BLM will make available for public review, in their entirety, all comments submitted by businesses or organizations, including comments by individuals in their capacity as an official or representative of a business or organization. Any adverse comments will be reviewed by the BLM, Nevada State Director.

In the absence of any adverse comments, the decision will become effective on July 31, 2006. The lands will not be offered for sale until after the decision becomes effective.

Authority: 43 CFR 2711.1–2(a).

Dated: April 20, 2006.

Sharon DiPinto,

Assistant Field Manager, Division of Lands, Las Vegas, Nevada.

[FR Doc. E6–8257 Filed 5–26–06; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–210–1430–01; NMNM113248]

Notice of Realty Action—Recreation and Public Purpose (R&PP) Act Classification, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of R&PP lease/patent of public land in McKinley County; New Mexico.

SUMMARY: The following described public land is determined suitable for classification for leasing or conveyance to the Faith Tabernacle Navajo Missions Church, Ojo Encino, New Mexico under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 et seq.). The Faith Tabernacle Navajo Missions Church proposes to use the land for a church with related buildings, and recreational facilities to serve the residents of the area.

New Mexico Principal Meridian

T. 20 N., R. 5 W.,
Sec. 15:E½SW¼SE¼SW¼.
Containing 5 acres, more or less.

Comment Dates: On or before July 14, 2006 interested parties may submit

comments regarding the proposed leasing/conveyance or classification of the lands to the Bureau of Land Management at the following address. Any adverse comments will be reviewed by the Bureau of Land Management, Farmington District Manager, 1235 La Plata Highway, Farmington, NM 87401, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action becomes the final determination of the Department of the Interior and effective July 31, 2006.

FOR FURTHER INFORMATION CONTACT: Mary Jo Albin, Realty Specialist, at the Bureau of Land Management, Farmington Field Office, at (505) 599–6332. Information related to this action, including the environmental assessment, is available for review at the 1235 La Plata Highway, Farmington, NM 87401.

SUPPLEMENTARY INFORMATION: Publication of this notice segregates the public land described above from all other forms of appropriation under the public land laws, including the general mining laws, except for leasing and conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws for a period until November 30, 2007. The segregative affect will terminate upon issuance of the lease and patent to the Faith Tabernacle Navajo Missions Church, or eighteen months from the date of this publication, whichever occurs first.

The lease, when issued, will be subject to the following terms:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. Provisions of the Resource Conservation and Recovery Act of 1976 (RCRA) as amended, 42 U.S.C. 6901–6987 and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) as amended, 42 U.S.C. 9601 and all applicable regulations.

3. Provisions of Title VI of the Civil Rights Act of 1964.

4. Provisions that the lease be operated in compliance with the approved Development Plan.

The patent, when issued, will be subject to the following terms:

1. Reservation to the United States of a right-of-way for ditches and canals in accordance with 43 U.S.C. 945.

2. Reservation to the United States of coal.

3. All valid existing rights, *e.g.* rights-of-way and leases of record.

4. Provisions that if the patentee or its successor attempts to transfer title to or control over the land to another or the land is devoted to a use other than that for which the land was conveyed, without the consent of the Secretary of the Interior or his delegate, or prohibits or restricts, directly or indirectly, or permits it agents, employees, contractors, or subcontractors, including without limitation, lessees, sublessees and permittees, to prohibit or restrict, directly or indirectly, the use of any part of the patented lands or any of the facilities whereon by any person because of such person's race, creed, color, or national origin, title shall revert to the United States.

The lands are not needed for Federal purposes. Leasing and later patenting is consistent with current Bureau of Land Management policies and land use planning. The proposal serves the public interest since it would provide a church, related buildings, and recreation facilities that would meet the needs of the surrounding population.

Authority: 43 CFR part 2741.

Dated: April 24, 2006.

Ray Sanchez,

Acting Assistant District Manager, Lands and Renewable Resources.

[FR Doc. E6–8261 Filed 5–26–06; 8:45 am]

BILLING CODE 4310–VB–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Headquarters, Cape Wind Offshore Wind Development 2007

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS), request for written scoping comments and invitation for participation by cooperating agencies.

SUMMARY: The MMS has received a request from Cape Wind Associates, LLC (CWA) for a lease, easement or right-of-way to construct and operate a wind park located in Federal waters 4.7 miles offshore Cape Cod, Massachusetts. The purpose of this project is to provide a utility-scale wind energy facility providing power to the New England power grid. By this document, the MMS announces: (1) Its intention to prepare an EIS; (2) commencement of a 45-day written scoping period under the National Environmental Policy Act (NEPA); and (3) invitation for participation by interested cooperating agencies.

DATES: Comments must be received no later than July 14, 2006 in envelopes labeled ''Comments on the Notice of Intent to Prepare an EIS for Proposed Cape Wind Project.'' Further instructions on submitting comments is contained in Section 3 of the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Dr. Rodney E. Cluck, Project Coordinator, at (703) 787–1087 in MMS's Headquarters office regarding questions on the NOI.

SUPPLEMENTARY INFORMATION

1. Background

In November 2001, CWA filed a permit application with the U.S. Army Corps of Engineers (USACE), New England District, under section 10 of the Rivers and Harbors Act of 1899, in anticipation of constructing a wind park located on Horseshoe Shoal in Nantucket Sound, Massachusetts. The proposed wind park would consist of 130 offshore wind turbine generators arranged to maximize the park's maximum potential electric output of approximately 454 megawatts. The wind-generated electricity from each of the turbines would be transmitted via a 33 kilovolt submarine transmission cable system to a centrally located electric service platform. This platform would transform and transmit electric power to the Cape Cod mainland (12+ miles) via two 115 kilovolt lines, where it would ultimately connect with the existing power grid.

The Energy Policy Act of 2005 was enacted on August 8, 2005, giving the Department of the Interior authority for issuing leases, easements, or rights-of-way for alternative energy projects on the Outer Continental Shelf (OCS). Since its establishment in 1982, the DOI's Minerals Management Service (MMS) has been responsible for management of oil, natural gas, and other mineral resource activities on offshore Federal lands. With the new authority in the Energy Policy Act of 2005, the MMS will now also manage the alternative energy-related uses on Federal OCS lands, act as a lead agency for coordinating the permitting process with other Federal agencies, and monitor and regulate those facilities used for alternative energy production and energy support services. As such, the MMS must comply with NEPA when considering the CWA application.

In addition to the MMS' analysis under NEPA, the Massachusetts Environmental Policy Act (MEPA) will apply to the project's upland and submarine cable system components in Nantucket Sound out to the 3-mile State/Federal boundary. In order to address all the environmental analyses in the most efficient manner, the State

MEPA and Federal NEPA processes will run concurrently and be analyzed together, within the NEPA document.

General information on the MMS Renewable Energy and Alternate Use Program can be found at *http://www.mms.gov/offshore/RenewableEnergy/RenewableEnergyMain.htm.*

2. Solicitation of Comments and Issues Under This Notice of Intent

Pursuant to the regulations (40 CFR 1508.22) implementing the procedural provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), the MMS is announcing its intent to prepare an EIS for the CWA project. The EIS analysis will focus on the potential environmental effects of the development, operations and decommissioning on the proposed action area and alternatives. This NOI also serves to announce the initiation of the written scoping process for this EIS. The scoping process allows Federal, State, tribal, and local governments and other interested parties to aid the MMS in determining the significant issues, potential alternatives, and mitigating measures to be analyzed in the EIS and the possible need for additional information. The MMS is considering potential alternatives to the proposed action such as: modifying the size of the development, phasing the development, reconfiguring the development, and considering alternative sites. These and any additional alternatives developed through the scoping and analytical processes will be considered in the decision process. Alternatives to be considered in the EIS include:

- Proposed Action.
- Phased installations and operations of wind turbine generators.
- Alternative locations.
  1. South of Tuckernuck Island.
  2. Nantucket Shoals.
  3. Monomoy Shoals.
  4. Deepwater Alternative—East of Nauset Beach.
- No Action.

3. Instructions on Notice of Intent

Federal, State, tribal, and local governments and other interested parties are requested to send their written comments on the scope of the EIS, significant issues that should be addressed, and potential alternatives and mitigating measures. Written comments will be accepted by mail or through the MMS Web site noted below. Comments are due no later than July 14, 2006.

Mailed comments should be enclosed in an envelope labeled, ''Comments on the Notice of Intent to Prepare an EIS on the Cape Wind Project.'' The MMS will also accept written comments submitted to our electronic public commenting system. This system can be accessed at *http://www.mms.gov/offshore/RenewableEnergy/Projects.htm.*

- Mail written comments to: Comments on the Notice of Intent to Prepare an EIS on the Cape Wind Project, Minerals Management Service, 381 Elden Street, Mail Stop 4042, Herndon, VA 20164.

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

4. Cooperating Agency

The Department of the Interior invites other Federal, State, tribal, and local governments to consider becoming cooperating agencies in the preparation of the EIS. We invite qualified government entities to inquire about cooperating agency status for the Cape Wind EIS. Under guidelines from the Council of Environmental Quality (CEQ), qualified agencies and governments are those with ''jurisdiction by law or special expertise.'' Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and to remember that your role in the environmental analysis neither enlarges nor diminishes the final decisionmaking authority of any other agency involved in the NEPA process. Upon request, the MMS will provide potential cooperating agencies with a written summary of ground rules for cooperating agencies, including time schedules and critical action dates, milestones, responsibilities, scope and detail of cooperating agencies' contributions, and availability of pre-decisional information. You should also consider the ''Factors for Determining Cooperating Agency Status'' in Attachment 1 to CEQ's January 30, 2002, Memorandum for the Heads of Federal Agencies on Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act. A copy of this document is available at: *http://ceq.eh.doe.gov/nepa/regs/cooperating/cooperatingagenciesmemorandum.html* and *http://ceq.eh.doe.gov/nepa/regs/cooperating/cooperatingagencymemofactors.html.*

The MMS, as the lead agency, will not be providing financial assistance to cooperating agencies. Even if your organization is not a cooperating agency, you will continue to have opportunities to provide information and comments to the MMS during the normal public input phases of the NEPA/EIS process. The MMS will also consult with tribal governments on a Government-to-Government basis. If you would like further information about cooperating agencies, please contact Dr. Rodney E. Cluck, the MMS's Cape Wind project manager at 703–787–1087.

Current Cooperating Agencies on the Cape Wind project EIS include:

United States Fish and Wildlife Service.
Cape Cod Commission.
United States Department of Energy.
United States Coast Guard.
United States Department of the Interior/Office of Environmental Policy and Compliance.
Wampanoag Tribe of Gay Head.
Federal Aviation Administration.
Massachusetts Coastal Zone Management.
Massachusetts Environmental Policy Act Office.
National Oceans and Atmospheric Association/National Marine Fisheries Service.
United States Environmental Protection Agency.
United States Army Corps of Engineers.

Dated: April 26, 2006.

Chad Calvert,

Acting Assistant Secretary—Land and Minerals Management.

[FR Doc. E6–8216 Filed 5–26–06; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–442–443 and 731–TA–1095–1097 (Final)]

Certain Lined Paper School Supplies From China, India, and Indonesia

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

DATES: *Effective Date:* May 22, 2006.

FOR FURTHER INFORMATION CONTACT: Jai Motwane (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On March 27, 2006, the Commission established a schedule for the conduct of the final phase of the subject investigations (71 FR 17914, April 7, 2006). Subsequently, the Department of Commerce extended the date for its final determinations with respect to Indonesia from June 5, 2006 to August 9, 2006 (71 FR 26925, May 9, 2006). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigations is as follows: Requests to appear at the hearing must be filed with the Secretary to the Commission not later than July 14, 2006; the prehearing conference, if necessary, will be held at the U.S. International Trade Commission Building at 9:30 a.m. on July 18, 2006; the prehearing staff report will be placed in the nonpublic record on June 27, 2006; the deadline for filing prehearing briefs is July 12, 2006; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on July 25, 2006; the deadline for filing posthearing briefs is August 2, 2006; the Commission will make its final release of information on August 25, 2006; and final party comments are due on August 29, 2006.[1]

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: May 23, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–8194 Filed 5–26–06; 8:45 am]

BILLING CODE 7020–02–P

[1] Parties will be permitted to submit additional comments of no more than five double-spaced pages on August 31, 2006 pertaining only to the results of Commerce's final less-than-fair-value determination with respect to China.

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–865–867 (Review)]

Stainless Steel Butt-Weld Pipe Fittings From Italy, Malaysia, and the Philippines

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the antidumping duty orders on stainless steel butt-weld pipe fittings from Italy, Malaysia, and the Philippines.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty orders on stainless steel butt-weld pipe fittings from Italy, Malaysia, and the Philippines would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* May 5, 2006.

FOR FURTHER INFORMATION CONTACT: Nathanael Comly (202–205–3174), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On April 10, 2006, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (71 FR 20132, April 19, 2006). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on August 8, 2006, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on September 12, 2006, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or

before September 5, 2006. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on September 8, 2006, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is September 1, 2006. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is September 21, 2006; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before September 21, 2006. On October 13, 2006, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before October 17, 2006, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by § 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: May 18, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–8195 Filed 5–26–06; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 06–036]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark office, and are available for licensing.

DATE: May 30, 2006.

FOR FURTHER INFORMATION CONTACT: James J. McGroary, Patent Counsel, Marshall Space Flight Center, Mail Code LS01, Huntsville, AL 35812; telephone (256) 544–0013; fax (256) 544–0258.

NASA Case No. MFS–32137–1: Low Power, High Voltage Power Supply With Fast Rise/Fall Time.

Dated: May 23, 2006.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. 06–4942 Filed 5–26–06; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–032)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATE: May 30, 2006.

FOR FURTHER INFORMATION CONTACT: Kent N. Stone, Patent Counsel, Glenn Research Center at Lewis Field, Code 500–118, Cleveland, OH 44135; telephone (216) 433–8855; fax (216) 433–6790.

NASA Case No. LEW–17484–5: Tracking Of Cells With A Compact Microscope Imaging System Using Intelligent Controls;

NASA Case No. LEW–18054–1: High Work Output Ni-Ti-Pt High Temperature Shape Memory Alloys And Associated Processing Methods;

NASA Case No. LEW–17904–1: Synthesis Of Asymmetric Tetracarboxylic Acids And Corresponding Dianhydrides;

NASA Case No. LEW–17642–2: Energetic Atomic And Ionic Oxygen Textured Optical Surfaces For Blood Glucose Monitoring;

NASA Case No. LEW–17642–3: Energetic Atomic And Ionic Oxygen Textured Optical Surfaces For Blood Glucose Monitoring.

Dated: May 23, 2006.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E6–8268 Filed 5–26–06; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–035)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark office, and are available for licensing.

DATE: May 30, 2006.

FOR FURTHER INFORMATION CONTACT: Linda B. Blackburn, Patent Counsel, Langley Research Center, Mail Code 141, Hampton, VA 23681–2199; telephone (757) 864–9260; fax (757) 864–9190.

NASA Case No. LAR–17116–1: System And Method For Wirelessly Determining Fluid Volume;

NASA Case No. LAR–17032–1: Active Multistable Twisting Device;

NASA Case No. LAR–17013–1: Thermally Driven Piston Assembly And Position Control Therefor;

NASA Case No. LAR–16872–1: Graded Index Silicon Geranium On Lattice Matched Silicon Geranium Semiconductive Alloy.

Dated: May 23, 2006.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E6–8269 Filed 5–26–06; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–031)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATE: May 30, 2006.

FOR FURTHER INFORMATION CONTACT: Robert M. Padilla, Patent Counsel, Ames Research Center, Code 202A–4, Moffett Field, CA 94035–1000; telephone (650) 604–5104; fax (650) 604–2767.

NASA Case No. ARC–15437–1: Simplified Night Sky Display System;

NASA Case No. ARC–15462–1: Finite-Difference Simulation and Visualization of Elastodynamics in Time-Evolving Generalized Curvilinear Coordinates;

NASA Case No. ARC–15475–2: Methods for Stimulating Nervous System Regeneration and Repair by Gene Transfer of Modified STAT3 Alpha Genes;

NASA Case No. ARC–14661–3: Selective Functionalization of Carbon Nanotubes Based Upon Distance Traveled;

NASA Case No. ARC–15714–1: Multiple Wavelength Light Collimator and Monitor.

Dated: May 23, 2006.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E6–8270 Filed 5–26–06; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–033)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark office, and are available for licensing.

DATE: May 30, 2006.

FOR FURTHER INFORMATION CONTACT: David Walker, Patent Counsel, Goddard Space Flight Center, Mail Code 140.1, Greenbelt, MD 20771–0001; telephone (301) 286–7351; fax (301) 286–9502.

NASA Case No. GSC–14960–1: Conduit Purging Device and Method;

NASA Case No. GSC–14871–1: Method of Forming Pointed Structures.

Dated: May 23, 2006.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E6–8271 Filed 5–26–06; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–034)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark office, and are available for licensing.

DATE: May 30, 2006.

FOR FURTHER INFORMATION CONTACT: Edward K. Fein, Patent Counsel, Johnson Space Center, Mail Code AL, Houston, TX 77058–8452; telephone (281) 483–4871; fax (281) 483–6936.

NASA Case No. MSC–23997–1: Magnetic Capture Docking Mechanism;

NASA Case No. MSC–23154–2: A Real-Time, High Frequency QRS Electrocardiograph;

NASA Case No. MSC–23954–1: Self-Advancing Step-Tap Tool;

NASA Case No. MSC–23623–1: String Resistance Detector;

NASA Case No. MSC–23876–1: Low Friction High Stiffness Joint for Sensing System;

NASA Case No. MSC–23931–1: New Methodology To Characterize Photochemically-Deposited Contaminant Films on Spacecraft Optical Systems.

Dated: May 23, 2006.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E6–8272 Filed 5–26–06; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA,

records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before July 14, 2006. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001.

E-mail: requestschedule@nara.gov.

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1539. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Agricultural Marketing Service (N1–136–05–2, 3 items, 3 temporary items). Master files and electronic mail and word processing copies of documents associated with an electronic information system used by schools and institutional food buyers to purchase food from producers and distributors. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

2. Department of Agriculture, Agricultural Marketing Service (N1–136–05–4, 7 items, 7 temporary items). Inputs, outputs, master files, documentation, and electronic mail and word processing copies associated with an electronic information system used to collect and report on the grading and inspection of processed fruits and vegetables along with related billing data. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

3. Department of Agriculture, Agricultural Marketing Service (N1–136–06–2, 9 items, 9 temporary items). Inputs, outputs, master files, documentation, and electronic mail and word processing copies associated with an electronic information system used to track results of egg handler inspections performed under the authority of the Egg Products Inspection Act. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

4. Department of the Air Force, Community College of the Air Force (N1–AFU–04–3, 2 items, 2 temporary items). Master files and electronic mail and word processing copies associated with an electronic information system used to maintain student transcript information relating to the agency's two-year academic degree program for Air Force enlisted members.

5. Department of the Army, Agency-wide, (N1–AU–03–22, 1 item, 1 temporary item). Master files associated with an electronic information system used to track basic human resource information from multiple sources. Data includes names, social security numbers, addresses, promotions, and assignments.

6. Department of Defense, Defense Finance and Accounting Service (N1–507–06–1, 2 items, 2 temporary items). Records relating to property management and the acquiring, building, or discontinuance of real property. Included are such records as receipts, vouchers, forms, work orders, and completion reports.

7. Department of Homeland Security, U.S. Citizenship and Immigration Services (N1–566–06–1, 6 items, 6 temporary items). Inputs, outputs, master files, documentation, and electronic mail and word processing copies associated with an electronic information system used to track files relating to persons who are not a citizen or national of the United States.

8. Department of Housing and Urban Development, Office of Multifamily Housing (N1–207–06–2, 14 items, 12 temporary items). Inputs, outputs, master files, and documentation associated with an electronic information system used to collect and maintain tenant data and payment history of all project-based subsidy contracts for multifamily housing projects. Proposed for permanent

retention are master files and documentation relating to tenant data. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

9. Department of the Interior, Office of the Secretary (N1–48–05–11, 18 items, 14 temporary items). Records of the Office of Congressional and Legislative Affairs including daily legislative summary files, confirmation files, congressional and legislative files prepared for and promulgated on the agency's public Web site, White House legislative reports, and congressional request or discovery document production files. Also included are electronic copies of records created using electronic mail and word processing applications. Proposed for permanent retention are recordkeeping copies of legislative history files in electronic and paper formats along with an electronic tracking system for those files.

10. Department of the Interior, Office of the Secretary (N1–48–05–12, 11 items, 7 temporary items). Records relating to the Take Pride in America program including files relating to nominees not selected for awards, media notebook files, copies of event photographs already approved as permanent as part of the Secretary's historical photograph collection, and routine correspondence with the public and supporters of the program. Also included are electronic copies of records created using electronic mail and word processing applications. Proposed for permanent retention are recordkeeping copies of awards files, promotional materials files, public Web site records, and program history files.

11. Department of the Interior, Office of the Secretary (N1–48–06–1, 23 items, 19 temporary items). Records created and maintained by the Appraisal Services Directorate of the National Business Center. Included are such records as policy and guidance files of a routine nature, policy drafts and clearance files, appraisal request files and records associated with an electronic information system used to track real property appraisal services. Also included are compliance files, certification and training files, public Web site records, and electronic copies of records created using electronic mail and word processing applications. Proposed for permanent retention are recordkeeping copies of policy and guidance files issued by the Office of Chief Appraiser, and appraisal services case files, compliance files, and certification and training files identified as Indian Fiduciary Trust files.

12. Department of Justice, Bureau of Prisons (N1–129–06–6, 9 items, 9 temporary items). Inputs, outputs, master files, and system documentation associated with an obsolete DOS-based electronic information system and the new Web-based system used to collect and analyze background investigations of agency staff. Also included are electronic copies of records using electronic mail and word processing.

13. Department of Justice, Bureau of Prisons (N1–129–06–8, 7 items, 7 temporary items). Inputs, outputs, master files, and system documentation associated with an electronic information system used by inmates to exchange electronic messages with approved contacts.

14. Department of Justice, Bureau of Prisons (N1–129–06–9, 2 items, 2 temporary items). Staff physical fitness records consisting of respiratory-related test results and other documentation required for participation in a Disturbance Control Team. Also included are electronic copies of records created using electronic mail and word processing.

15. Department of the Navy, Naval Criminal Investigative Service (N1–NU–06–1, 1 item, 1 temporary item). Records related to inquiries or investigations into allegations of official misconduct of personnel, separate from criminal or counterintelligence investigations. This schedule reduces the retention period for recordkeeping copies of these files, which were previously approved for disposal. This schedule also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

16. Department of the Treasury, Bureau of Engraving and Printing (N1–318–06–2, 3 items, 3 temporary items). Operational records relating to currency production. Included are such records as product accountability and load forms, in-process inspection data, and a variety of daily printing and processing statistical reports.

17. Department of the Treasury, Bureau of Public Debt (N1–53–06–2, 5 items, 5 temporary items). Inputs, outputs, master files, documentation, and backups associated with a web site used by investors to view and manage their Treasury security holdings.

18. Nuclear Regulatory Commission, Office of Information Sources (N1–431–05–1, 2 items, 2 temporary items). Records associated with superseded electronic information system programs, master files, software, and coding.

19. Nuclear Waste Technical Review Board (N1–220–05–2, 4 items, 1 temporary item). Electronic copies of records created using electronic mail and word processing that pertain to board meeting records, executive correspondence, and publications. Proposed for permanent retention are recordkeeping copies of these files. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

20. Railroad Retirement Board, Office of Equal Opportunity (N1–184–06–1, 3 items, 1 temporary item). Working files including reference materials, extra copies of official files, and general administrative documents. Proposed for permanent retention are recordkeeping copies of the Director's program and policy subject files, and annual reports to agencies that provide oversight of Equal Employment Opportunity programs.

21. Small Business Administration (N1–309–05–21, 5 items, 5 temporary items). Master files, outputs, documentation, backups, and electronic mail and word processing copies associated with an electronic information system used to maintain contact and background information on the agency's lenders and partners.

Dated: May 19, 2006.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. E6–8200 Filed 5–26–06; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–03073, License No. SNM–1999]

Kerr-McGee Corporation; Notice of Termination of Kerr-McGee Cushing Site Special Nuclear Materials License No. SNM–1999

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of Termination of the Kerr-McGee Corporation (Kerr-McGee) Cushing Site Special Nuclear Materials (SNM) License, No. SNM–1999.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is noticing the termination of the Kerr-McGee Cushing Site SNM License, No. SNM–1999 (NRC Docket No. 70–03073), located in Cushing, Oklahoma.

Background: The NRC granted SNM License SNM–1999 to Kerr-McGee for the Cushing site on April 6, 1993. The license authorized possession of uranium and thorium onsite in concentrations above background levels. The license enabled Kerr-McGee to possess contaminated soil, sludge,

sediment, trash, building rubble, structures, and any other contaminated material at the Cushing site during remediation and disposal activities.

Kerr-McGee remediated the site under a consent order with the Oklahoma Department of Environmental Quality. Kerr-McGee submitted its Decommissioning Plan (DP) on August 17, 1998, and NRC approved the DP on August 20, 1999. The licensee conducted decommissioning activities at the Cushing site in accordance with the approved DP from January 2000 to June 2005. In accordance with the DP, the licensee conducted final status surveys (FSSs) to demonstrate that the facility and site meet the criteria for unrestricted release as stated in Condition 11(N) of SNM–1999. Details of the FSS results were submitted to the NRC in 15 separate FSS reports (FSSRs). Kerr-McGee also submitted a dose assessment demonstrating that the post remediation conditions at the site meet the unrestricted release criteria of 10 CFR part 20, subpart E. Kerr-McGee submitted a request for termination of its SNM License on June 15, 2005 (ML051680329), with revisions on May 11, 2006 (ML061380781).

NRC conducted a number of independent confirmatory surveys to verify FSS results obtained and reported by the licensee. Confirmatory surveys consisted of surface scans for beta and gamma radiation, direct measurements for total beta activity, collection of smear samples for determining removable radioactivity levels, and collection and analysis of soil samples.

The Commission has concluded, based on the considerations discussed above, that: (i) The remaining dismantlement has been performed in accordance with the approved DP; (ii) The FSS and associated documentation demonstrate that the Cushing site meet the criteria for decommissioning and release of the site for unrestricted use that are stipulated in Condition 11(N) of SNM–1999. Further, FSSs demonstrated that the post-remediation condition of the site results in a dose less than the 25 mrem (millirem)/year (yr) unrestricted release criteria of 10 CFR part 20, subpart E; and (iii) Kerr-McGee has met the Part 70 requirements for forwarding of specific records to NRC prior to license termination. Therefore, the Commission is terminating SNM License No. SNM–1999.

FOR FURTHER INFORMATION CONTACT: See the application dated June 15, 2005, with revisions on May 11, 2006, and the Safety Evaluation Report dated May 18, 2006, available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agency-wide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html* (ADAMS Accession Nos. ML051680329, ML061380781, and ML060960070).

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland this 18th day of May, 2006.

For the Nuclear Regulatory Commission.

Daniel M. Gillen,

Deputy Director, Decommissioning Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E6–8274 Filed 5–26–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–266, 50–301, 50–282, and 50–306]

Nuclear Management Company, LLC; Point Beach Nuclear Plant, Units 1 and 2; Prairie Island Nuclear Generating Plant, Units 1 and 2; Exemption

1.0 Background

The Nuclear Management Company, LLC (NMC, licensee) is the holder of Facility Operating License Nos. DPR–24, DPR–27, DPR–42, and DPR–60, which authorize operation of the Point Beach Nuclear Plant (PBNP), Units 1 and 2, and the Prairie Island Nuclear Generating Plant (PINGP), Units 1 and 2. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, Commission) now or hereafter in effect.

The PBNP facility consists of two pressurized-water reactors located in Manitowoc County, Wisconsin, and the PINGP facility consists of two pressurized-water reactors located in Goodhue County, Minnesota.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR), section 50.71, ''Maintenance of records, making of reports,'' paragraph (e)(4) states, in part, ''Subsequent revisions [to the updated Final Safety Analysis Report (FSAR)] must be filed annually or 6 months after each refueling outage provided the interval between successive updates does not exceed 24 months.'' When two units share a common FSAR, the rule has the effect of making the licensee update the FSAR about every 12 to 18 months. The current rule, as revised on August 31, 1992 (57 FR 39353), was intended to provide some reduction in regulatory burden by limiting the frequency of required updates. The burden reduction, however, can only be realized by single-unit facilities or multiple-unit facilities that maintain separate FSARs for each unit. For multiple-unit facilities with a common FSAR, the phrase ''each refueling outage'' increases rather than decreases the regulatory burden. While the NRC did not provide in the rule for multiple-unit facilities sharing a common FSAR, it stated that, ''[w]ith respect to the concern about multiple facilities sharing a common FSAR, licensees will have maximum flexibility for scheduling updates on a case-by-case basis'' (57 FR 39355). PBNP and PINGP are two-unit sites, each site sharing a common updated FSAR [1]. This rule requires the licensee to update the PBNP FSAR and PINGP FSAR annually or within 6 months after each unit's refueling outage.

In summary, the exemption from the requirements of 10 CFR 50.71(e)(4) would allow periodic updates of the PBNP and PINGP updated FSARs once per fuel cycle, within 6 months following completion of each PBNP, Unit 1, refueling outage and within 6 months of each PINGP, Unit 2, refueling outage, respectively, not to exceed 24 months from the last submittal for either site.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Section 50.12(a)(2)(ii) of 10 CFR states that special circumstances are present when ''[a]pplication of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.'' The underlying

[1] The updated FSAR at PINGP is called the Updated Safety Analysis Report (USAR).

purpose of the rule was to relieve licensees of the burden of filing annual FSAR revisions while assuring that such revisions are made at least every 24 months.

The NRC staff examined the licensee's rationale to support the exemption request and concluded that it would meet the underlying purpose of 10 CFR 50.71(e)(4). The licensee's proposed schedule for the PBNP FSAR and PINGP FSAR updates will ensure that the FSAR will be kept current for all units within 24 months of the last revision. The proposed schedule satisfies the maximum 24-month interval between FSAR revisions specified by 10 CFR 50.71(e)(4). The requirement to revise the FSAR annually or within 6 months after refueling outages for each unit, therefore, is not necessary to achieve the underlying purpose of the rule.

Based on a consideration of the licensee's proposed exemption, the NRC staff concludes that literal application of 10 CFR 50.71(e)(4) would require the licensee to update the same document within 6 months after a refueling outage for either unit at each site, a more burdensome requirement than intended by the regulation.

Therefore, the NRC staff concludes that, pursuant to 10 CFR 50.12(a)(2)(ii), special circumstances are present.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants NMC an exemption from the requirements of 10 CFR 50.71(e)(4) to submit updates to the PBNP FSAR and PINGP FSAR annually or within 6 months of each unit's refueling outage. The licensee will be required to submit updates of the PBNP and PINGP updated FSARs once per fuel cycle, within 6 months following completion of each PBNP, Unit 1, refueling outage and within 6 months of each PINGP, Unit 2, refueling outage, respectively, not to exceed 24 months from the last submittal for either site.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (71 FR 28889).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 22nd day of May 2006.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–8262 Filed 5–26–06; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Sunshine Act, Board of Governors; Meeting

TIMES AND DATES: 8:30 a.m., Tuesday, June 6, 2006; and 9 a.m., Wednesday, June 7, 2006.

PLACE: Indianapolis, Indiana, at the Westin Hotel, 50 South Capitol Avenue.

STATUS: June 6—8:30 a.m. (Closed); June 7—9 .a.m. (Closed).

MATTERS TO BE CONSIDERED:

Tuesday, June 6, at 8:30 a.m. (Closed)

1. Labor Negotiations Planning.
2. Rate Case Planning.
3. Strategic Planning.
4. Financial Update.
5. Personnel Matters and Compensation Issues.

Wednesday, June 7, at 9 a.m. (Closed—if needed.)

1. Continuation of Tuesday's agenda.

FOR FURTHER INFORMATION CONTACT: Wendy A. Hocking, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Wendy A. Hocking,

Secretary.

[FR Doc. 06–4993 Filed 5–25–06; 3:21pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act; Meeting

Federal Register Citation of Previous Announcement: [71 FR 28892, May 18, 2006]

STATUS: Closed Meeting.

PLACE: 100 F Street, NE., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, May 25, 2006 at 2 p.m.

CHANGE IN THE MEETING: Additional Item and Time Change.

The Closed Meeting scheduled for Thursday, May 25, 2006 at 2 p.m. has been changed to Thursday, May 25, 2006 at 1 p.m. with the following item being added: Congressional request for non-public documents.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(c)(2), (6) and (7) and 17 CFR 200.402(a)(2), (6) and (7) permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Atkins, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: May 24, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. 06–4955 Filed 5–25–06; 10:46 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53852; File No. SR–FICC–2006–04]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify Provisions in the Rules of the Government Securities Division Relating to the GCF Forward Mark Component of the Funds-Only Settlement Process

May 23, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 24, 2006, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by FICC. FICC filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[2] and Rule 19b–4(f)(4) thereunder[3] so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A)(iii).

[3] 17 CFR 240.19b–4(f)(4).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change clarifies provisions in the rules of the Government Securities Division (''GSD'') of FICC relating to the GCF forward mark component of the funds-only settlement process.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

FICC's GCF Repo Service enables dealer members of the GSD to freely and actively trade general collateral repos throughout the day without requiring intraday, trade-for-trade settlement on a delivery-versus payment basis. The GSD's funds-only settlement process is the mechanism by which cash adjustments are passed through from one member to another. One component of GSD's funds-only settlement process is the GCF forward mark. The GCF forward mark is a cash mark-to-market adjustment that brings members' GCF net settlement positions from contract value to current market value.[5]

As the novation of forward-settling trades occurs one or more days prior to the settlement of such trades, FICC incurs multiday settlement exposure on such trades. To mitigate this risk, FICC collects and passes through on a daily basis, as a part of the morning funds-only settlement process, a mark-to-market amount equivalent to its ongoing exposure on each forward net settlement position. This mark-to-market on forward-settling trades is determined in FICC's forward mark calculation.

Rule 13 of the GSD rules governs its funds-only settlement process. A review of this rule has revealed the need for clarification in the rule's language that describes the GSD's forward mark calculation. Two defined terms in the current GSD rules that were intended to represent the entire mark-to-market attributable to forward-settling GCF Repo activity, namely Credit GCF Interest Rate Mark and Debit GCF Interest Rate Mark, are defined in a way that causes them to reflect only tentative or interim amounts.

As currently defined in the Rules, the determination of a Credit GCF Interest Rate Mark or a Debit GCF Interest Rate Mark is based solely on the calculation of an amount defined in the GSD rules as the GCF Interest Rate Mark; however, the definition of GCF Interest Rate Mark omits a required reference to the calculation of interest accrued on the financing aspect of the applicable transaction.[6] A definition that would better reflect the actual mark-to-market for a particular forward-settling GCF Repo transaction should also take into account both the GCF Interest Rate Mark and the interest accrued on the financing component of the transaction. Therefore, as currently defined these terms do not fully reflect the actual calculations that are both required and currently used by FICC to mitigate risk exposure on forward settling GCF Repo trades.

In order to conform the GSD Rules to actual and correct practice in this regard, FICC is proposing to revise the rules to: (i) Add a new term called GCF Forward Mark, (ii) replace the above-mentioned terms Credit GCF Interest Rate Mark and Debit GCF Interest Rate Mark with newly defined terms to be called Credit GCF Forward Mark and Debit GCF Forward Mark,[7]and (iii) utilize the term Accrued Repo Interest-to-Date contained in a recently approved rule filing by the Commission.[8]

The term GCF Forward Mark will properly reflect the calculation of the outstanding GCF Repo transaction as the sum of the Accrued Repo-Interest-to-Date and the GCF Interest Rate Mark. To the extent that the mark-to-market for a particular member is positive, it shall be deemed a Credit GCF Forward Mark and to the extent that the mark-to-market for a particular member is negative, it shall be deemed to be a Debit GCF Forward Mark. Whether reflecting a credit or a debit, the newly-defined GCF Forward Mark will represent a calculation which accurately describes the portion of a member's forward mark adjustment payment attributable to a particular GCF Repo transaction.

In addition to the above, a technical adjustment has been made to correct a typographical error in subsections (f) and (g) of Section 1 of Rule 13 which transposed the usage of terms involving debits and credits in connection with a description of certain situations where a member would be required to make a payment to or could collect a payment from FICC as part of the funds-only settlement process.

The proposed change is consistent with section 17A of the Act[9] and the rules and regulations thereunder applicable to FICC because it makes technical changes that clarify FICC's rules in a manner consistent with the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to section 19(b)(3)(A)(iii) of the Act[10]. and Rule 19b 4(f)(4)[11] thereunder because it effects a change in an existing service of FICC that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of FICC or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of FICC or persons using the service. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

[4] The Commission has modified the text of the summaries prepared by FICC.

[5] A mark-to-market is essentially a repricing of forward settling activity on a daily basis.

[6] The definition of ''GCF Interest Rate Mark'' is included for reference purposes in Exhibit 5 to the proposed rule filing.

[7] The deletion of the terms Credit GCF Interest Rate Mark and Debit GCF Interest Rate Mark and the addition of the terms Credit GCF Forward Mark and Debit GCF Forward Mark necessitates a conforming change to provisions of Section 1 of Rule 13 of the GSD rules.

[8] Securities Exchange Act Release No. 53534 (March 21, 2006), 71 FR 15781 (March 28, 2006) [File No. SR–FICC–2005–18].

[9] 15 U.S.C. 78q–1.

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.196b–4(f)(4).

or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FICC–2006–04 on the subject line.

Paper Comments≤

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FICC–2006–04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at *http://www.ficc.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FICC–2006–04 and should be submitted on or before June 20, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Nancy M. Morris,

Secretary.

[FR Doc. E6–8237 Filed 5–26–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53850; File No. SR–ISE–2006–21]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Exposure Period for Crossing Orders

May 23, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 17, 2006, the International Securities Exchange, Inc. (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the ISE. The ISE filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to decrease the exposure period for crossing orders under ISE Rule 717(d) and (e) to three seconds. The text of the proposed rule change is as follows, with deletions in [brackets] and additions *italicized*.

Rule 717. Limitations on Orders

* * * * *

(d) Principal Transactions.

Electronic Access Members may not execute as principal orders they represent as agent unless (i) agency orders are first exposed on the Exchange for at least *three (3)* [thirty (30)] seconds, (ii) the Electronic Access Member has been bidding or offering on the Exchange for at least *three (3)* [thirty (30)] seconds prior to receiving an agency order that is executable against such bid or offer, or (iii) the Member utilizes the Facilitation Mechanism pursuant to Rule 716(d).

(e) Solicitation Orders.

Electronic Access Members may not execute orders they represent as agent on the Exchange against orders solicited from Members and non-member broker-dealers to transact with such orders unless (i) the unsolicited order is first exposed on the Exchange for at least *three (3)* [thirty (30)] seconds, or (ii) the Member utilizes the Solicited Order Mechanism pursuant to Rule 716(e).

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

An Electronic Access Member (''EAM'') of the Exchange may not execute an order it represents as agent with a facilitation or solicited order (referred to herein as ''crossing orders'') unless it complies with the order exposure requirements contained in ISE Rule 717(d) and (e) respectively. As set forth in these provisions, if an EAM seeking to cross two orders does not choose to use the Facilitation Mechanism or the Solicited Order Mechanism, which automatically expose crossing orders for 3 seconds, it is required to comply with a 30-second exposure requirement. Specifically, when an EAM chooses not to use the Facilitation Mechanism, it may not execute a facilitation cross unless (i) the agency order is first exposed on the Exchange for at least 30 seconds; or (ii) the EAM has been bidding or offering on the Exchange for at least 30 seconds prior to receiving the agency order that is executable against such bid or offer. Similarly, when an EAM chooses not to use the Solicited Order Mechanism, it may not execute a solicitation cross

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

unless the agency order is first exposed on the Exchange for 30 seconds.

The Exchange proposes to shorten the duration of the exposure period contained in the rules governing such transactions from 30 seconds to 3 seconds. This shortened exposure period is fully consistent with the electronic nature of the Exchange's market. Market participants on the ISE have implemented systems that monitor any updates to the ISE market, including any changes resulting from orders being entered into the market, and can automatically respond based on pre-set parameters. Thus, an exposure period of 3 seconds will permit exposure of orders on the ISE in a manner consistent with the Exchange's electronic market.

By reducing the exposure time to 3 seconds, the ISE believes that EAMs will be able to provide liquidity to their customers' orders on a timelier basis, thus providing investors with more speedy executions. Timely and accurate executions are consistent with the principles under which the ISE's electronic market was developed.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5)[5] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the proposal will permit members to provide liquidity to customer orders on a more timely basis, thus providing investors with more speedy executions. At the same time, it will preserve a reasonable period for orders to interact in the auction market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[6] and Rule 19b-4(f)(6) thereunder.[7]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.[8] However, Rule 19b-4(f)(6)(iii)[9] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The ISE has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change is based on rules recently approved by the Commission for two other exchanges.[10] For this reason, the Commission designates the proposal to be effective and operative upon filing with the Commission.[11]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–ISE–2006–21 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2006–21. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2006–21 and should be submitted on or before June 20, 2006.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b-4(f)(6). When filing a proposed rule change pursuant to Rule 19b-4(f)(6) under the Act, an Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange provided notice to the Commission two business days prior to filing the proposed rule change, and the Commission has determined to waive the five business day requirement.

[8] 17 CFR 240.19b-4(f)(6)(iii).

[9] *Id.*

[10] *See* Securities Exchange Act Release Nos. 53567 (March 29, 2006), 71 FR 17529 (April 6, 2006) (SR–CBOE–2006–09) and 53609 (April 6, 2006), 71 FR 19224 (April 13, 2006) (SR–NYSEArca-2006–01).

[11] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–8236 Filed 5–26–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53848; File No. SR–NYSE–2005–78]

Self-Regulatory Organizations; New York Stock Exchange, Inc. (n/k/a New York Stock Exchange LLC); Order Approving a Proposed Rule Change Relating to Amendments to New York Stock Exchange Rules 35 (''Floor Employees to be Registered'') and 301 (''Proposed Transfer or Lease of Membership'')

May 19, 2006.

I. Introduction

On December 13, 2005, the New York Stock Exchange, Inc. (n/k/a New York Stock Exchange LLC) (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change seeking to amend NYSE Rules 35 (''Floor Employees to be Registered'') and 301 (''Proposed Transfer or Lease of Membership'') which would limit access to the Exchange Floor until fingerprint reports have been properly processed and approved, require an alternative background check for persons whose fingerprints are deemed illegible, and clarify that the Exchange would no longer process fingerprint cards.

The proposed rule change was noticed for comment in the **Federal Register** on December 29, 2005.[3] The Commission received no comments on the proposed rule change. On March 20, 2006, the Exchange filed Amendment No. 1.[4] On May 4, 2006, the Exchange filed Amendment No. 2 to the proposed rule change. On May 10, 2006, the Exchange withdrew Amendment No. 2 and filed Amendment No. 3 to the proposed rule change.[5] This order approves the proposed rule change.

II. Description

NYSE Rule 35 governs the issuance of Floor tickets (*i.e.*, Regular Tickets and Special Tickets) to Floor employees, which enables them to enter upon the trading Floor. NYSE Rule 35.70 requires the fingerprinting of prospective employees of members and member organizations. Similarly, NYSE Rule 301(c) requires that prospective members be fingerprinted.

Due to security concerns, the Exchange is proposing to tighten these rules by: (1) Denying access to the Floor for persons fingerprinted for the first time until the fingerprinting results have properly been processed and accepted; and (2) subjecting persons whose fingerprints cannot be read (*i.e.*, are illegible) to an alternative background check acceptable to the Exchange that would cover the same criminal convictions included by a fingerprint background check. NYSE's proposed amendments also reflect that the Exchange no longer accepts fingerprint cards, but rather requires members and applicants for membership to be fingerprinted through an agent acceptable to the Exchange.

A. Background

Rule 17f–2 under the Exchange Act[6] sets out the requirements for the fingerprinting of persons employed in the securities industry. The Exchange has adopted procedures to comply with the regulations in order to assure that appropriate persons are fingerprinted and the results of the fingerprinting are reviewed.[7] Specifically, prior to providing member firm employees with Floor ticket access to the Trading Floor and Exchange facilities, and pursuant to NYSE Rules 35 and 345.11 (''Employees—Registration, Approval, Records''),[8] a member firm must electronically submit a Form U4[9] via the Central Registration Depository system (''CRD'').[10] The hiring member firm and the employee are responsible for confirming the accuracy of the information included on the Form U4.[11]

Members and member organizations currently have up to 30 days from the date of the electronic filing of the Form U4 application in Web CRD for the fingerprints to be submitted. The Exchange has represented that applicants and member organizations sometimes wait until the end of the 30-day period to submit fingerprints, although results from the Federal Bureau of Investigation (''FBI'') can be reported within 24–48 hours.

B. NYSE's Proposed Rule Change

1. Access to Exchange Floor

NYSE is proposing that prospective Floor employees not be admitted to the Floor until the results of the applicant's fingerprinting have been posted to the CRD, reviewed and approved. NYSE, however, would grant conditional approval to an applicant who had been fingerprinted previously in connection with employment by another member or registered broker-dealer, pending review of the fingerprint results submitted by the current employer, if the prior employment was within ninety days of the application.

2. Illegible Fingerprints—Alternative Background Checks

The Exchange also is proposing to address its concern about applicants that submit fingerprints which cannot be read (*i.e.*, illegible fingerprints). Under Exchange Act Rule 17f–2(a)(l)(iv),[12] when fingerprints are rejected three times as ''illegible'' by the FBI, the individual is exempt from further fingerprinting.[13] Exchange Act

[12] 17 CFR 200/30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 53018 (December 14, 2005), 70 FR 77230 (December 29, 2005).

[4] In Amendment No. 1, the Exchange deleted Footnote 1 from the original filing and clarified that upon the cessation of the sale of memberships at the end of 2005, the Exchange would no longer provide fingerprinting services to any of its members. This amendment did not affect the substance of the proposed rule change; therefore, the Commission is not noticing this Amendment for public comment.

[5] In Amendment No. 3, the Exchange made technical changes to reflect modifications made to the format of NYSE Rule 301 that were approved as part of SR–NYSE–2005–77. *See* Securities Exchange Act Release No. 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006). Due to the purely technical nature of Amendment No. 3, the Commission is not noticing this Amendment for public comment.

[6] 17 CFR 240.17f–2.

[7] *See* NYSE Information Memos 76–30 dated June 25, 1976 and 76–53, dated December 31, 1976, announcing, respectively, the adoption of Exchange Act Rule 17f–2 and SEC approval of the Exchange's plan for the processing of fingerprints. *See also* Securities Exchange Act Release No. 13105 (December 23, 1976), 42 FR 753 (January 4, 1977).

[8] NYSE Rule 345.11 requires, among other things, member firms to thoroughly investigate the previous record of persons whom they contemplate employing.

[9] Form U4 includes information such as an individual's ten-year employment history, five-year residential history, education, disciplinary actions, disclosure information, and the SRO of registration.

[10] The CRD is a registration and licensing system for the U.S. securities industry, state and federal regulators, and SROs. The National Association of Securities Dealers, Inc. (''NASD'') operates the CRD pursuant to policies developed jointly with the North American Securities Administrators Association, Inc.

[11] Firms can use CRD to verify the accuracy of the disclosure portion (*e.g.*, criminal disclosures, regulatory action disclosures) of Form U4 against previously submitted filings and fingerprint results.

[12] 17 CFR 240.17f-2(a)(1)(iv).

[13] In this instance, CRD also conducts a ''name check.''

Rule 17f–2 does not require an alternate means of conducting a background check. To address this possible gap in the background check, NYSE is proposing to require that members and member organizations conduct an alternative background check acceptable to the Exchange when an individual's fingerprints are deemed illegible.

In order to be acceptable to the Exchange, any such background check would have to cover the same criminal convictions included by fingerprint type on a fifty state basis and, if the applicant is foreign, an Interpol or other multi-national database check. Conditional approval would be available to persons previously the subject of a background check, provided employment with a member or registered broker-dealer terminated within ninety days of the application.

3. Acceptance of Fingerprint Cards

Lastly, the Exchange is proposing revisions to NYSE Rules 35.70 and 301(c) to reflect the fact that the Exchange no longer receives fingerprint cards directly but does so through agents of the Exchange.[14] However, the Exchange's Membership Services Department will process the fingerprints of member applicants not associated with broker-dealers (not required to be registered on CRD).

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[15] In particular, the Commission finds that the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act[16] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest.

The Commission believes that the proposed rule change should strengthen the security of the Exchange Floor by not permitting new Floor employees to be admitted to the Floor until the results of their fingerprint checks have been posted to the CRD, reviewed and approved. The Exchange, however, would grant conditional approval to persons previously fingerprinted, or subject to a background check with a member or registered broker-dealer, where such prior employment was within ninety days of the application. The Commission believes that permitting conditional approval under those conditions is acceptable given that any such applicant would be under a duty to disclose to the Exchange any reportable events during such employment to a supervising broker-dealer who was charged with a duty to report statutory disqualifications. In addition, the applicant would, of course, have a duty to disclose any reportable events during the intervening period in his or her application.

The Commission also believes that requiring an alternative background check in the event that an applicant's fingerprints are deemed illegible and therefore, a fingerprint check is not performed on an applicant, should strengthen the security of the NYSE Floor. The Commission notes that in order for an alternative background check to be acceptable to the Exchange, the background check would, at a minimum, have to disclose the same arrest records as a fingerprint check would for all fifty states and, where the applicant is foreign, through the records of Interpol. Member organizations would be expected to use appropriate diligence in the selection of investigative agencies for such background checks, assuring their ability to satisfactorily research all pertinent databases. The Commission believes that these standards should ensure that an adequate background check is performed on all applicants.

Finally, the Commission believes that is it acceptable for the Exchange to no longer accept fingerprint cards, and for NYSE Rules 35 and 301 to provide that any individual who is required to submit to a fingerprint-based background check, have such a check performed by an agent acceptable to the Exchange. The Exchange has represented that it believes that the NASD or another self-regulatory organization should be able to provide these services to any member or applicant that requires fingerprinting.[17] Therefore, the Commission believes that individuals who need to obtain access to fingerprinting services in order to gain access to the Exchange floor should not be adversely affected by the proposed rule change.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[18] that the proposed rule change (SR–NYSE–2005–78) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Nancy M. Morris,

Secretary.

[FR Doc. E6–8235 Filed 5–26–06; 8:45 am]

BILLING CODE 8010–01–P

[14] NYSE Rule 345.18 (''Employees—Registration, Approval, Records'') provides that any filing or submission to be made with the Exchange under that rule, where appropriate, may be made with a properly authorized agent acting on behalf of the Exchange and shall be deemed to be a filing with the Exchange.

[15] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78f(b)(5).

[17] Telephone conference among Jennifer Colihan, Special Counsel, Division of Market Regulation (''Division''), Commission, Kristie Diemer, Attorney, Division, Commission, and Gregory Taylor, Senior Special Counsel, Exchange, on March 22, 2006.

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53849; File No. SR–NYSE–2006–20]

Self-Regulatory Organizations; New York Stock Exchange, Inc. (n/k/a New York Stock Exchange LLC); Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto To List and Trade Index-Linked Securities of Barclays Bank PLC Linked to the Performance of the GSCI® Total Return Index

May 22, 2006.

I. Introduction

On March 13, 2006, the New York Stock Exchange, Inc. (n/k/a New York Stock Exchange LLC) (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to list and trade Index-Linked Securities (the ''Notes'') of Barclays Bank PLC (''Barclays'') linked to the performance of the GSCI® Total Return Index (the ''Index''). On March 27, 2006, NYSE filed Amendment No. 1 to the proposed rule change. The proposed rule change was published for comment in the **Federal Register** on April 24, 2006.[3] The Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 53658 (April 14, 2006), 71 FR 21064 (''Notice'').

received no comments regarding the proposal. This order approves the proposed rule change, as amended, on an accelerated basis.

II. Description of the Proposal

The NYSE proposes to list and trade the Notes that will track the performance of the Index pursuant to Section 703.19 (''Other Securities'') of the NYSE Listed Company Manual (''Manual''). Barclays intends to issue the Notes under the name ''iPath^{SM} Exchange-Traded Notes.'' The Exchange believes that the Notes will conform to the initial listing standards for equity securities under Section 703.19 of the Manual because Barclays is an affiliate of Barclays PLC,[4] an Exchange listed company in good standing. Under Section 703.19 of the Manual, the Exchange may approve for listing and trading securities not otherwise covered by the criteria of Sections 1 and 7 of the Manual, provided the issue is suited for auction market trading.[5] The Notes will have a minimum life of one year, the minimum public market value of the Notes at the time of issuance will exceed $4 million, there will be at least one million Notes outstanding, and there will be at least 400 holders at the time of issuance.

The Notes are a series of medium-term debt securities of Barclays that provide for a cash payment at maturity or upon earlier exchange at the holder's option, based on the performance of the Index. The principal amount of each Note is $50. The Notes will trade on the Exchange's equity trading floor, and the Exchange's existing equity trading rules will apply to trading in the Notes. The Notes will not have a minimum principal amount that will be repaid and, accordingly, payment on the Notes prior to or at maturity may be less than the original issue price of the Notes. In fact, the value of the Index must increase for the investor to receive at least the $50 principal amount per Note at maturity or upon exchange or redemption. If the value of the Index decreases or does not increase sufficiently to offset the investor fee (described below), the investor will receive less, and possibly significantly less, than the $50 principal amount per Note. In addition, holders of the Notes will not receive any interest payments from the Notes. The Notes will have a term of 30 years. The Notes are not callable.[6]

Description of ''GSCI'' and the Index

The investment objective of the Notes is to track the Index. The value of the Index is derived from the separate, but related Goldman Sachs Commodity Index (''GSCI®'').[7] Both indexes are described below and in more detail in the Notice.[8]

The Index was established in May 1991 and is designed to be a diversified benchmark for physical commodities as an asset class. The Index reflects the excess returns that are potentially available through an unleveraged investment in the contracts comprising the GSCI® plus the Treasury Bill rate of interest that could be earned on funds committed to the trading of the underlying contracts.[9] The value of the Index, on any given day, reflects (i) the price levels of the contracts included in the GSCI® (which represents the value of the GSCI®); (ii) the ''contract daily return,'' which is the percentage change in the total dollar weight of the GSCI® from the previous day to the current day; and (iii) the Treasury Bill rate of interest that could be earned on funds committed to the trading of the underlying contracts.

The GSCI®, upon which the Index is based, is a proprietary index on a production-weighted basket of futures contracts on physical commodities traded on futures exchanges in major industrialized countries.[10] The GSCI® is designed to be a measure of the performance over time of the markets for these commodities. The only commodities represented in the GSCI® are those physical commodities on which active and liquid contracts are traded on regulated futures exchanges in major industrialized countries. The commodities represented in the GSCI® are weighted, on a production basis, to reflect their relative significance (in the view of the Index Sponsor, in consultation with the Policy Committee) to the world economy. The fluctuations in the value of the GSCI® are intended generally to correlate with changes in the prices of such physical commodities in global markets. Futures contracts on the GSCI®, and options on such futures contracts, are currently listed for trading on the Chicago Mercantile Exchange.

The contracts to be included in the GSCI® must satisfy several sets of eligibility criteria established by the Index Sponsor.[11] First, the Index Sponsor identifies those contracts that meet the general criteria for eligibility. Second, the contract volume and weight requirements are applied and the number of contracts is determined, which serves to reduce the list of eligible contracts. At that point, the list of designated contracts for the relevant period is complete.

The value of the GSCI® on any given day is equal to the total dollar weight of the GSCI® divided by a normalizing constant that assures the continuity of the GSCI® over time. The total dollar weight of the GSCI® is the sum of the dollar weight of each index component. The dollar weight of each such index component on any given day is equal to:

- The daily contract reference price,
- Multiplied by the appropriate contract production weights (''CPWs''), and
- During a roll period, the appropriate ''roll weights'' (discussed below).[12]

---

[4] The issuer of the Notes, Barclays, is an affiliate of an Exchange-listed company (Barclays PLC) and not an Exchange-listed company itself. However, Barclays, though an affiliate of Barclays PLC, would exceed the Exchange's earnings and minimum tangible net worth requirements in Section 102 of the Manual. Additionally, the Exchange states that the Notes, when combined with the original issue price of all other Note offerings of the issuer that are listed on a national securities exchange (or association), does not exceed 25% of the issuer's net worth. Telephone conference between Florence E. Harmon, Senior Special Counsel, Division of Market Regulation (''Division''), Commission, and John Carey, Assistant General Counsel, Exchange, on April 11, 2006 (''April 11 Telephone Conference'').

[5] *See* Securities Exchange Act Release No. 28217 (July 18, 1990), 55 FR 30056 (July 24, 1990) (SR–NYSE–90–30).

[6] April 11 Telephone Conference.

[7] Telephone conference between Florence E. Harmon, Senior Special Counsel, Division, Commission, and John Carey, Assistant General Counsel, Exchange, on April 14, 2006 (''April 14 Telephone Conference'').

[8] The methodology for determining the composition and weighting of the GSCI® and for calculating its value is described in more detail in the Notice. *See supra,* note 3.

[9] The Treasury Bill rate of interest used for purposes of calculating the index on any day is the 91-day auction high rate for U.S. Treasury Bills, as reported on Telerate page 56, or any successor page, on the most recent of the weekly auction dates prior to such day.

[10] The criteria for index composition, contract expirations, component replacements, and valuation are set forth in more detail in the Notice. *See* Notice, *supra,* note 3. Currently, Index components trade on U.S. futures exchanges, the London Metals Exchange (''LME''), or the Intercontinental Exchange (formerly known as the International Petroleum Exchange, which now operates its futures business through ICE Futures), with whom NYSE has comprehensive surveillance sharing arrangements.

[11] See GSCI® Manual at *http://www.gs.com/gsci*. Goldman, Sachs & Co. is the Index Sponsor for both the Index and the GSCI®. Telephone conference between Florence E. Harmon, Senior Special Counsel, Division, Commission, and Michael Cavalier, Assistant General Counsel, Exchange, on April 13, 2006 (''April 13 Telephone Conference'').

[12] If the price is not made available or corrected by 4 p.m. New York time, the Index Sponsor, if it deems such action to be appropriate under the circumstances, will determine the appropriate daily contract reference price for the applicable futures contract in its reasonable judgment for purposes of the relevant GSCI® calculation. If such actions by the Index Sponsor are implemented on more than a temporary basis, the Exchange will contact the Commission staff and, as necessary, file a proposed rule change pursuant to Rule 19b–4, seeking

Continued

These factors, along with the contract daily return for each Index component, are described in more detail in the Notice. Additionally, this information is publicly available each business day on the Index Sponsor's Web site at *http://www.gs.com/gsci* [13] and the relevant futures exchanges, and/or from major market data vendors. However, if the volume of trading in the relevant contract, as a multiple of the production levels of the commodity, is below specified thresholds, the CPW of the contract is reduced until the threshold is satisfied. This is designed to ensure that trading in each contract is sufficiently liquid relative to the production of the commodity.

The composition of the GSCI® is reviewed on a monthly basis by the Index Sponsor and, if the multiple of any contract is below the prescribed threshold, the composition of the GSCI is reevaluated, based on the criteria and weighting procedures.[14] This procedure is undertaken to allow the GSCI® to shift from contracts that have lost substantial liquidity into more liquid contracts during the course of a given year.[15] As a result, it is possible that the composition or weighting of the GSCI® will change on one or more of these monthly Valuation Dates. In addition, regardless of whether any changes have occurred during the year, the Index Sponsor reevaluates the composition of the GSCI® at the conclusion of each year, based on the above criteria. Other commodities that satisfy such criteria, if any, will be added to the GSCI®. Commodities included in the GSCI® which no longer satisfy such criteria, if any, will be deleted.

The Index Sponsor has established a Policy Committee to assist it with the operation of the GSCI®.[16] The principal purpose of the Policy Committee is to advise the Index Sponsor with respect to, among other things, the calculation of the GSCI®, the effectiveness of the GSCI® as a measure of commodity futures market performance, and the need for changes in the composition or the methodology of the GSCI®. The Policy Committee acts solely in an advisory and consultative capacity. All decisions with respect to the composition, calculation and operation of the GSCI® and the Index are made by the Index Sponsor.[17]

The Index Sponsor makes the official calculations of the GSCI®. While the intraday and closing values of the GSCI ® (and the Index) are calculated by Goldman, Sachs & Co., a broker-dealer, a number of factors provide for the independent verification of these intraday and closing values.[18] This calculation is performed continuously and is reported on Reuters page GSCI® (or any successor or replacement page) and will be updated on Reuters at least every 15 seconds during business hours on each day on which the offices of the Index Sponsor in New York City are open for business (a ''GSCI Business Day'').[19] The settlement price for the Index is also reported on Reuters page GSCI® (or any successor or replacement page) on each GSCI Business Day between 4 p.m. and 6 p.m., New York time.

Indicative Value

An intraday ''Indicative Value'' meant to approximate the intrinsic economic value of the Notes will be calculated and published via the facilities of the Consolidated Tape Association (''CTA'') every 15 seconds throughout the NYSE trading day on each day on which the Notes are traded on the Exchange. Additionally, Barclays or an affiliate will calculate and publish the closing Indicative Value of the Notes on each trading day at *http://www.ipathetn.com*.

The Indicative Value will not reflect price changes to the price of an underlying commodity between the close of trading of the futures contract at the relevant futures exchange and the close of trading on the NYSE at 4 p.m. New York time.[20] The value of the Notes may accordingly be influenced by non-concurrent trading hours between the NYSE and the various futures exchanges on which the futures contracts based on the Index commodities are traded.

While the market for futures trading for each of the Index commodities is open, the Indicative Value can be expected to closely approximate the redemption value of the Notes. However, during NYSE trading hours when relevant futures contracts have ceased trading, spreads and resulting premiums or discounts may widen, and therefore, increase the difference between the price of the Notes and their redemption value. The Indicative Value disseminated during NYSE trading

---

Commission approval to continue to trade the Notes. Unless approved for continued trading, the Exchange would commence delisting proceedings. *See* ''Continued Listing Criteria,'' *infra.* Telephone conference between Florence Harmon, Senior Special Counsel, Division, Commission; John Carey, Assistant General Counsel, Exchange; and Michael Cavalier, Assistant General Counsel, Exchange, on April 10, 2006 (''April 10 Telephone Conference'').

[13] The CPWs are available in the GSCI® manual on the GSCI® Web site *(http://www.gs.com/gsci)* and are published on Reuters. The roll weights are not published but can be determined from the rules in the GSCI Manual. Telephone conference between Florence Harmon, Senior Special Counsel, Division, Commission, John Carey, Assistant General Counsel, Exchange, and Heather Shemilt, Goldman Sachs & Co., on May 18, 2006 (''May 18 Telephone Conference'').

[14] The Index Sponsor, Goldman, Sachs & Co., which calculates and maintains the GSCI® and the Index, is a broker-dealer. Therefore, appropriate firewalls must exist around the personnel who have access to information concerning changes and adjustment to an index and the trading personnel of the broker-dealer. Accordingly, the Index Sponsor has represented that it (i) has implemented and maintained procedures reasonably designed to prevent the use and dissemination by personnel of the Index Sponsor, in violation of applicable laws, rules and regulations, of material non-public information relating to changes in the composition or method of computation or calculation of the Index and (ii) periodically checks the application of such procedures as they relate to such personnel of the Index Sponsor directly responsible for such changes. In addition, the Policy Committee members are subject to written policies with respect to material, non-public information. Telephone conversation between Florence Harmon, Senior Special Counsel, Division, Commission; John Carey, Assistant General Counsel, Exchange; and Michael Cavalier, Assistant General Counsel, Exchange, on April 14, 2006 (''April 14 Telephone Conference II'') and May 18 Telephone Conference.

[15] *See also* ''Contract Expirations'' in Notice, *supra,* note 3.

[16] The component selections for the GSCI® would obviously affect the Index. Telephone conference between Florence Harmon, Senior Special Counsel, Division, Commission, and Michael Cavalier, Assistant General Counsel, Exchange, on April 12, 2006 (''April 12 Telephone Conference'').

[17] The Policy Committee members are subject to written policies with respect to material, non-public information. Telephone conference between Florence Harmon, Senior Special Counsel, Division, Commission, and Michael Cavalier, Assistant General Counsel, Exchange, on May 15, 2006 (''May 15 Telephone Conference'').

[18] The Index Sponsor calculates the level of the Index intraday and at the end of the day. The intraday calculation is based on feeds of real-time data relating to the underlying commodities and updates intermittently approximately every 15 seconds. In the GSCI market, trades are quoted or settled against the end-of-day value, not against the value at any other particular time of the day. With respect to the end-of-day closing level of the index, the Index Sponsor uses independent feeds from at least two vendors for each of the underlying commodities in the index to verify closing prices and limit moves. A number of commodities market participants independently verify the correctness of the disseminated intraday Index value and closing Index value. Additionally, the closing Index values are audited by a major independent accounting firm. May 18 Telephone Conference.

[19] Additionally, this intraday index value of the Index will be updated and disseminated at least every 15 seconds by a major market data vendor during the time the Notes trade on the Exchange. April 13 Telephone Conference. The intraday information with respect to the Index (and GSCI®) reported on Reuters is derived solely from trading prices on the principal trading markets for the various Index components. For example, the Index currently includes contracts traded on ICE Futures and the LME, both of which are located in London and consequently have trading days that end several hours before those of the U.S.-based markets on which the rest of the Index components are traded. During the portion of the New York trading day when ICE Futures and LME are closed, the last reported prices for Index Components traded on ICE Futures or LME are used to calculate the intraday Index information disseminated on Reuters.

[20] April 10 Telephone Conference. The Notice includes a chart of the trading hours for each of the futures contract components in the Index. *See* Notice, *supra*, note 3.

hours should not be viewed as a real time update of the redemption value.

Valuation and Redemption of Notes

Holders who have not previously redeemed their Notes will receive a cash payment at maturity equal to the principal amount of their Notes times the index factor on the Final Valuation Date (as defined below) minus the investor fee on the Final Valuation Date. The ''index factor'' on any given day will be equal to the closing value of the Index on that day divided by the initial index level. The index factor on the Final Valuation Date will be equal to the final index level divided by the initial index level. The ''initial index level'' is the closing value of the Index on the date of issuance of the Notes (the ''Trade Date''), and the ''final index level'' is the closing value of the Index on the Final Valuation Date. The investor fee is equal to 0.75% per year times the principal amount of a holder's Notes times the index factor, calculated on a daily basis in the following manner: the investor fee on the Trade Date will equal zero. On each subsequent calendar day until maturity or early redemption, the investor fee will increase by an amount equal to 0.75% times the principal amount of a holder's Notes times the index factor on that day (or, if such day is not a trading day, the index factor on the immediately preceding trading day) divided by 365. The investor fee is the only fee holders will be charged in connection with their ownership of the Notes.

Prior to maturity, holders may redeem their Notes on any Redemption Date (defined below) during the term of the Notes, provided that they present at least 50,000 Notes for redemption, or they act through a broker or other financial intermediaries (such as a bank or other financial institution not required to register as a broker-dealer to engage in securities transactions) that are willing to bundle their Notes for redemption with other investors' Notes. If a holder chooses to redeem his Notes on a Redemption Date, such holder will receive a cash payment on such date equal to the principal amount of his Notes times the index factor on the applicable Valuation Date (defined below) minus the investor fee on the applicable Valuation Date. A ''Redemption Date'' is the third business day following a Valuation Date (other than the Final Valuation Date (defined below)). A ''Valuation Date'' is each Thursday from the first Thursday after issuance of the Notes until the last Thursday before maturity of the Notes (the ''Final Valuation Date'') inclusive (or, if such date is not a trading day, the next succeeding trading day), unless the calculation agent determines that a market disruption event, as described below, occurs or is continuing on that day.[21] In that event, the Valuation Date for the maturity date or corresponding Redemption Date, as the case may be, will be the first following trading day on which the calculation agent determines that a market disruption event does not occur and is not continuing. In no event, however, will a Valuation Date be postponed by more than five trading days.[22]

To redeem their Notes, holders must instruct their broker or other person through whom they hold their Notes to take the following steps:

- Deliver a notice of redemption to Barclays via e-mail by no later than 11 a.m. New York time on the business day prior to the applicable Valuation Date. If Barclays receives such notice by the time specified in the preceding sentence, it will respond by sending the holder a confirmation of redemption;
- Deliver the signed confirmation of redemption to Barclays via facsimile in the specified form by 4 p.m. New York time on the same day. Barclays must acknowledge receipt in order for the confirmation to be effective; and
- Transfer such holder's book-entry interest in its Notes to the trustee, The Bank of New York, on Barclays' behalf at or prior to 10 a.m. New York time on the applicable Redemption Date (the third business day following the Valuation Date).[23]

If holders elect to redeem their Notes, Barclays may request that Barclays Capital Inc. (a broker-dealer) purchase the Notes for the cash amount that would otherwise have been payable by Barclays upon redemption. In this case, Barclays will remain obligated to redeem the Notes if Barclays Capital Inc. fails to purchase the Notes. Any Notes purchased by Barclays Capital Inc. may remain outstanding for trading on the Exchange.

If an event of default occurs and the maturity of the Notes is accelerated, Barclays will pay the default amount in respect of the principal of the Notes at maturity. Additionally, in the event of a disruption, adjustment, discontinuance, or substitution of the Index, the calculation agent has discretion as to the computation methodology and adjustments. However, in such case, the Exchange will file a proposed rule change pursuant to Rule 19b–4 under the Act. Unless approved for continued trading, the Exchange would commence delisting proceedings.[24]

Continued Listing Criteria

The Exchange prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A–3 under the Act.[25]

The Exchange will delist the Notes:

- If, following the initial twelve month period from the date of commencement of trading of the Notes, the Notes have more than 60 days remaining until maturity and (i) there are fewer than 50 beneficial holders of the Notes for 30 or more consecutive trading days; (ii) if fewer than 50,000 Notes remain issued and outstanding; or (iii) if the market value of all outstanding Notes is less than $1,000,000;
- If the Index value ceases to be calculated or available during the time the Notes trade on the Exchange on at least every 15 second basis through one or more major market data vendors;[26]
- If, during the time the Notes trade on the Exchange, the Indicative Value ceases to be available on a 15 second delayed basis; or
- If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Additionally, the Exchange will file a proposed rule change pursuant to Rule 19b–4 under the Act[27] seeking approval to continue trading the Notes and unless approved, the Exchange will commence delisting the Notes if:

- The Index Sponsor substantially changes either the Index component selection methodology or the weighting methodology;[28]

[21] Barclays will serve as the initial calculation agent for the Notes.

[22] If a ''market disruption event'' (which affects the Valuation Date) is of more than a temporary nature, the Exchange will file a proposed rule change pursuant to Rule 19b–4 under the Act. Unless approved for continued trading, the Exchange would commence delisting proceedings. *See* ''Continued Listing Criteria,'' *infra.* April 10 Telephone Conference.

[23] April 10 Telephone Conference.

[24] *See* ''Continued Listing Criteria,'' *infra.* April 10 Telephone Conference.

[25] 17 CFR 240.10A–3; *see also* 15 U.S.C. 78a.

[26] The Exchange confirmed that the Index value (along with the GSCI® index value) will be disseminated at least every 15 seconds by one or more major market data vendors during the time the Notes trade on the Exchange. The Exchange also confirmed these indexes have daily settlement values that are widely disclosed. Telephone conference between Florence E. Harmon, Senior Special Counsel, Division, Commission, and Michael Cavalier, Assistant General Counsel, Exchange, on April 13, 2006 (''April 13 Telephone Conference'').

[27] 17 CFR 240.19b–4.

[28] This would include the Index Sponsor's current examination of the conditions under which an instrument traded on an electronic platform, rather than a traditional futures contract traded on a traditional futures exchange should be included in the GSCI® and how the composition of the GSCI®

Continued

• If a new component is added to the Index (or pricing information is used for a new or existing component) that constitutes more than 10% of the weight of the Index with whose principal trading market the Exchange does not have a comprehensive surveillance sharing agreement;[29] or

• If a successor or substitute index is used in connection with the Notes. The filing will address, among other things the listing and trading characteristics of the successor or substitute index and the Exchange's surveillance procedures applicable thereto.

Trading Rules

The Exchange's existing equity trading rules will apply to trading of the Notes. The Notes will trade between the hours of 9:30 a.m. and 4 p.m. New York time and will be subject to the equity margin rules of the Exchange.[30]

(1) Trading Halts

The Exchange will cease trading the Notes if there is a halt or disruption in the dissemination of the Index value or the Indicative Value.[31] The Exchange will also cease trading the Notes if a ''market disruption event'' occurs that is of more than a temporary nature.[32] In the event that the Exchange is open for business on a day that is not a GSCI Business Day, the Exchange will not permit trading of the Notes on that day.

(2) Specialist Trading Obligations

Pursuant to new Supplementary Material .10 to NYSE Rule 1301B, the provisions of NYSE Rules 1300B(b) and 1301B would be applied to certain securities listed on the Exchange pursuant to Section 703.19 (''Other Securities'') of the Exchange's Manual. Specifically, NYSE Rules 1300B(b) and 1301B will apply to securities listed under Section 703.19 of the Manual where the price of such securities is based in whole or part on the price of (a) a commodity or commodities; (b) any futures contracts or other derivatives based on a commodity or commodities; or (c) any index based on either (a) or (b) above.

As a result of application of NYSE Rule 1300B(b), the specialist in the Notes, the specialist's member organization and other specified persons will be prohibited under paragraph (m) of NYSE Rule 105 Guidelines from acting as market maker or functioning in any capacity involving market-making responsibilities in the Index components, the commodities underlying the Index components, or options, futures or options on futures on the Index, or any other derivatives (collectively, ''derivative instruments'') based on the Index or based on any Index component or any physical commodity underlying an Index component. If the member organization acting as specialist in the Notes is entitled to an exemption under NYSE Rule 98 from paragraph (m) of NYSE Rule 105 Guidelines, then that member organization could act in a market making capacity in the Index components, the commodities underlying the Index components, or derivative instruments based on the Index or based on any Index component or commodity underlying an Index component, other than as a specialist in the Notes themselves, in another market center.

Under NYSE Rule 1301B(a), the member organization acting as specialist in the Notes (a) will be obligated to conduct all trading in the Notes in its specialist account, (subject only to the ability to have one or more investment accounts, all of which must be reported to the Exchange); (b) will be required to file with the Exchange and keep current a list identifying all accounts for trading in the Index components or the physical commodities underlying the Index components, or derivative instruments based on the Index or based on the Index components or the physical commodities underlying the Index components, which the member organization acting as specialist may have or over which it may exercise investment discretion; and (c) will be prohibited from trading in the Index components or the physical commodities underlying the Index components, or derivative instruments based on the Index or based on the Index components or the physical commodities underlying the Index components, in an account in which a member organization acting as specialist, controls trading activities which have not been reported to the Exchange as required by NYSE Rule 1301B.

Under NYSE Rule 1301B(b), the member organization acting as specialist in the Notes will be required to make available to the Exchange such books, records or other information pertaining to transactions by the member organization and other specified persons for its or their own accounts in the Index components or the physical commodities underlying the Index components, or derivative instruments based on the Index or based on the Index components or the physical commodities underlying the Index components, as may be requested by the Exchange. This requirement is in addition to existing obligations under Exchange rules regarding the production of books and records.

Under NYSE Rule 1301B(c), in connection with trading the Index components or the physical commodities underlying the Index components, or derivative instruments based on the Index or based on the Index components or the physical commodities underlying the Index components, the specialist could not use any material nonpublic information received from any person associated with a member or employee of such person regarding trading by such person or employee in the Index components or the physical commodities underlying the Index components, or derivative instruments based on the Index or based on the Index components or the physical commodities underlying the Index components.

Surveillance

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Notes and the Index components. The Exchange will rely upon existing NYSE surveillance procedures governing equities with respect to surveillance of the Notes. The Exchange believes that these procedures are adequate to monitor Exchange trading of the Notes and to detect violations of Exchange rules, consequently deterring manipulation. In this regard, the Exchange has the authority under NYSE Rules 476 and Rule 1301B to request the Exchange specialist in the Notes to provide NYSE Regulation with information that the specialist uses in connection with pricing the Notes on the Exchange, including specialist proprietary or other information regarding securities, commodities, futures, options on futures or other derivative instruments. The Exchange believes it also has authority to request any other information from its members—including floor brokers,

should respond to rapid shifts in liquidity between such instruments and contracts currently included in the GSCI®.

[29] Therefore, only 10% of the weight of all of the GSCI® (and thus the Index components) could not be subject to comprehensive surveillance sharing arrangements with the Exchange. April 10 Telephone Conference.

[30] *See* NYSE Rule 431.

[31] In the event the Index value or Indicative Value is no longer calculated or disseminated, the Exchange would immediately contact the Commission to discuss measures that may be appropriate under the circumstances.

[32] In the event a ''market disruption event'' occurs that is of more than a temporary nature, the Exchange would immediately contact the Commission to discuss measures that may be appropriate under the circumstances.

specialists and ''upstairs'' firms—to fulfill its regulatory obligations.

With regard to the Index components, the Exchange can obtain market surveillance information, including customer identity information, with respect to transactions occurring on the New York Mercantile Exchange (''NYMEX''), the Kansas City Board of Trade, ICE Futures, and the LME, pursuant to its comprehensive information sharing agreements with each of those exchanges. All of the other trading venues on which current Index components are traded are members of the Intermarket Surveillance Group (''ISG''), and the Exchange therefore has access to all relevant trading information with respect to those contracts without any further action being required on the part of the Exchange. All these surveillance arrangements constitute comprehensive surveillance sharing arrangements.[33]

Suitability

Pursuant to NYSE Rule 405, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes.[34] With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Notes: (a) To determine that such transaction is suitable for the customer; and (b) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, such transaction.

Information Memorandum

The Exchange will, prior to trading the Notes, distribute an information memorandum to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the Notes. The information memorandum will note to members language in the prospectus used by Barclays in connection with the sale of the Notes regarding prospectus delivery requirements for the Notes. Specifically, in the initial distribution of the Notes,[35] and during any subsequent distribution of the Notes, NYSE members will deliver a prospectus to investors purchasing from such distributors.[36] The information memorandum will discuss the special characteristics and risks of trading this type of security. Specifically, the information memorandum, among other things, will discuss what the Notes are, how the Notes are redeemed, applicable Exchange rules, dissemination of information regarding the Index value and the Indicative Value, trading information and applicable suitability rules.

The information memorandum will also notify members and member organizations about the procedures for redemptions of Notes and that Notes are not individually redeemable but are redeemable only in aggregations of at least 50,000 Notes.

The information memorandum will also reference the fact that there is no regulated source of last sale information regarding physical commodities and that the SEC has no jurisdiction over the trading of physical commodities, such as aluminum, gold, crude oil, heating oil, corn and wheat, or the futures contracts on which the value of the Notes is based, and that the Commodity Futures Trading Commission has no regulatory jurisdiction over the trading of certain foreign based futures contracts.[37]

The information memorandum will also discuss other exemptive or no-action relief under the Act provided by the Commission staff.[38]

III. Discussion and Commission's Findings

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[39] In particular, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of section 6(b)(5) of the Act,[40] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

A. Surveillance

Information sharing agreements with primary markets are an important part of a self-regulatory organization's ability to monitor for trading abuses in derivative products. The Commission believes that the Exchange's comprehensive surveillance sharing agreements with the NYMEX, the Kansas City Board of Trade, ICE Futures, and the LME for the purpose of providing information in connection with trading of the Notes and the Index components create the basis for the NYSE to monitor for fraudulent and manipulative practices in the trading of the Notes. The Exchange represents that all of the other trading venues on which current Index components are traded are members of the ISG, and the Exchange has access to all relevant trading information with respect to those contracts without any further action. In addition, the Exchange represents that it will delist the Notes if a new component is added to the Index (or pricing information is used for a new or existing component) that constitutes more than 10% of the weight of the Index with whose principal trading market the Exchange does not have a comprehensive surveillance sharing agreement.

Moreover, NYSE Rules 476 and 1301B requires Exchange specialists, upon the Exchange's request, to provide NYSE Regulation with information that the specialist uses in connection with pricing the Notes on the Exchange, including specialist proprietary or other information regarding securities, commodities, futures, options on futures, or other derivative instruments. Furthermore, the Exchange believes that it also has the authority to request any other information from its member—including floor brokers, specialists and ''upstairs'' firms—to fulfill its regulatory obligations. The Commission believes that these rules provide the NYSE with the tools necessary to adequately surveil trading in the Notes.

B. Dissemination of Information

The Commission believes that sufficient venues exist for obtaining reliable information so that investors in the Notes can monitor the underlying Index relative to the Indicative Value of their Notes. There is a considerable amount of information about the Index and its components available through public Web sites and professional subscription services, including Reuters and Bloomberg. Real time information about the trading of the component

[33] April 14 Telephone Conference.

[34] NYSE Rule 405 requires that every member, member firm or member corporation use due diligence to learn the essential facts relative to every customer and to every order or account accepted.

[35] The Registration Statement reserves the right to do subsequent distributions of these Notes.

[36] April 10 Telephone Conference.

[37] April 14 Telephone Conference.

[38] April 10 Telephone Conference.

[39] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[40] 15 U.S.C. 78f(b)(5).

futures contracts and their daily settlement prices are available from one or more major market data vendors, and in some cases, the underlying futures exchanges. The official calculation of the Index made by the Index Sponsor is performed continuously and is reported on Reuters page GSCI (or any successor or replacement page) and will be updated on Reuters at least 15 seconds during business hours during the time the Notes trade on the Exchange. The settlement price for the Index is also reported on Reuters page GSCI (or any successor or replacement page) on each GSCI Business Day between 4 p.m. and 6 p.m., New York time. While the Index is calculated by a broker-dealer, a number of independent sources verify both the intraday and closing Index values. The calculation methodology is public and transparent, and the factors included in the Index calculation, such as the CPWs, are available in the GSCI Manual found on GSCI's Web site at *http://www.gs.com/gsci* and are published on Reuters. The roll weights are not published but can be determined from the rules in the GSCI Manual.[41]

While the Indicative Value will not reflect price changes of an underlying commodity between the close of trading of the futures contract at the relevant futures exchange and the close of trading on the NYSE at 4 p.m. New York time, the Exchange represents that the Indicative Value will be calculated and published via the facilities of the CTA every 15 seconds throughout the NYSE trading day on each day the Notes are traded on the Exchange. In addition, Barclays or an affiliate will calculate and publish the closing Indicative Value of the Notes on each trading day at *http://www.ipathetn.com.*

C. Listing and Trading

The Commission finds that the Exchange's proposed rules and procedures for the listing and trading of the proposed Notes are consistent with the Act. The Notes will trade as equity securities subject to NYSE rules including, among others, rules governing equity margins, specialist responsibilities, account opening, and customer suitability requirements. The Commission believes that the listing and delisting criteria for the Notes should help to maintain a minimum level of liquidity and therefore minimize the potential for manipulation of the Notes. The Exchange represents that it would file a proposed rule change, pursuant to Rule 19b–4,[42] if the Index Sponsor materially changes the composition of both the GSCI® and the Index, the methodology of calculating the value of the GSCI® and the Index, or any other policies relevant to the Index. Finally, the Commission notes that the Information Memorandum that the Exchange will distribute will inform members and member organizations about the terms, characteristics and risks in trading the Notes, including their prospectus delivery obligations.

D. Accelerated Approval

The Commission finds good cause, pursuant to section 19(b)(2) of the Act,[43] for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission notes that the proposal is consistent with the listing and trading standards in NYSE Rule 703.19. The Commission does not believe that the proposed rule change, as amended, raises novel regulatory issues. Consequently, the Commission believes that it is appropriate to permit investors to benefit from the flexibility afforded by trading these products as soon as possible.

Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act,[44] to approve the proposal on an accelerated basis.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–NYSE–2006–20), as amended, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[45]

Nancy M. Morris,

Secretary.

[FR Doc. E6–8239 Filed 5–26–06; 8:45 am]

BILLING CODE 8010–01–P

[41] May 18 Telephone Conference.

[42] 17 CFR 240.19b–4.

[43] 15 U.S.C. 78s(b)(2).

[44] 15 U.S.C. 78s(b)(5).

[45] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5421]

Asia-Pacific Partnership on Clean Development and Climate; Notice of Public Meeting

The U.S. Department of State invites interested parties to attend a public meeting designed to share information on the outcomes of the meeting of the Asia-Pacific Partnership on Clean Development and Climate held in Berkeley on April 18–21, 2006.

Background

Australia, China, India, Japan, Korea, and the United States have established the Asia-Pacific Partnership on Clean Development and Climate to accelerate the development and deployment of clean energy technologies in their countries. The Partner countries have decided to work together and with their private sectors on energy security, national air pollution reduction, and climate change in ways that promote sustainable economic growth and poverty reduction. The Partnership involves countries that account for about half of the world's population and more than half of the world's economy and energy use.

The Partnership focuses on voluntary practical measures taken by these six countries in the Asia-Pacific region to create new investment opportunities, build local capacity, and remove barriers to the introduction of clean, more efficient technologies. It brings together key experts from the public and private sectors.

The First Ministerial meeting of the Asia-Pacific Partnership took place in Sydney, Australia, January 11–12, 2006. At that meeting, the ministers prepared a Partnership Communiqué, Charter, and Work Plan that established eight public-private sector Task Forces. Partner countries subsequently met in Berkeley, California from April 18—21, 2006, where they crafted guidelines that establish how the Partnership's eight task forces will operate and develop action plans. The Task Forces began discussing action plans that will guide the Partnership's concrete actions to improve efficiency, reduce pollution, and reduce greenhouse gas emissions in each sector.

For more information, please go to: *http://www.asiapacificpartnership.org.* If you would like to be notified in advance of future public outreach meetings on the Asia-Pacific Partnership, please e-mail your name, affiliation, phone number, and e-mail address to: *APP_ASG@state.gov.*

Public Meeting Date

The U.S. Department of State would like to extend an invitation to interested parties to attend a public meeting on June 5, 2006 from 3 p.m.—5 p.m. The public meeting is intended as a forum to share information and address questions concerning the Asia-Pacific Partnership meeting held in Berkeley earlier this year.

The meeting will be located in room 1912 of the Harry S. Truman Building of the Department of State, located at 2201 C St., NW., Washington, DC 20520.

The entrance is located on C St. between 21st St and 23rd St., NW. The meeting is held in a Federal government building; therefore, Federal security measures are applicable. In planning your arrival time, we recommend allowing at least 30 minutes of additional time to clear security. In order to gain access to the building, participants must bring government-issued photo identification. Persons without proper identification will be denied access. All visitors must be escorted inside the building. Please contact Denise Goode at *goodedx@state.gov* with your full name, date of birth, and identification number (either social security number or driver's license) by noon on June 2, 2006, if you plan on attending.

Dated: May 22, 2006.

Daniel A. Reifsnyder

Acting Deputy Assistant Secretary for Environment, Department of State.

[FR Doc. E6–8256 Filed 5–26–06; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at the Brunswick Golden Isles Airport, Brunswick, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. 47153(c), notice is being given that the FAA is considering a request from Glynn County to waive the requirement that approximately 18.50 acres of surplus property, located at the Brunswick Golden Isles Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before June 29, 2006.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: John R. Marshall, Program Manager, 1701 Columbia Ave., Suite 2–260, Atlanta GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gary Moore, County Attorney, at the following address: 701 G Street, Second Floor, Brunswick, Georgia 31520.

FOR FURTHER INFORMATION CONTACT: John R. Marshall, Program Manager Atlanta Airports District Office, 1701 Columbia Ave., Suite 2–260, Atlanta GA 30337–2747, (404) 305–7153. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by Glynn County to release approximately 18.50 acres of surplus property at the Brunswick Golden Isle Airport. The property consists of several parcels roughly located North and West of Runway 7–25 and along Harry Diggers Blvd. This property is currently shown on the approved Airport Layout Plan as aeronautical use land; however the property is currently not being used for aeronautical purposes and the existing use of this property is compatible with airport operations.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Glynn County Courthouse.

Issued in Atlanta, Georgia on May 22, 2006.

Scott L. Seritt,

Manager, Atlanta Airports Districts Office, Southern Region.

[FR Doc. 06–4939 Filed 5–26–06; 8:45am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at McKinnon St. Simons Island Airport, Brunswick, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. 47153(c), notice is being given that the FAA is considering a request from Glynn County to waive the requirement that approximately 3.17 acres of surplus property, located at the McKinnon St. Simons Island Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before June 29, 2006.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: John R. Marshall, Program Manager, 1701 Columbia Ave., Suite 2–260, Atlanta, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gary Moore, County Attorney, at the following address: 701 G Street, Second Floor, Brunswick, Georgia 31520.

FOR FURTHER INFORMATION CONTACT: John R. Marshall, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Suite 2–260, Atlanta, GA 30337–2747, (404) 305–7153. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by Glynn County to release approximately 3.17 acres of surplus property at the McKinnon St. Simons Island Airport. The property consists of several parcels roughly located East of Runway 22 and along Demere Road. This property is currently shown on the approved Airport Layout Plan as aeronautical use land; however the property is currently not being used for aeronautical purposes and the existing use of this property is compatible with airport operations.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Glynn County Courthouse.

Issued in Atlanta, Georgia on May 22, 2006.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 06–4938 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2006–15]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 19, 2006.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA–2006–24625] by any of the following methods:

- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Tim Adams (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, Shanna Harvey (202) 493–4657, or John Linsenmeyer (202) 267–5174, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on May 22, 2006.

Anthony F. Fazio,

Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2006–24625.
Petitioner: Aero Sports Connection.
Section of 14 CFR Affected: 14 CFR 61.313(g).

Description of Relief Sought: To permit Aero Sports Connection, to administer a community-wide exemption that would allow powered parachute pilots to qualify for sport pilot with a modified ratio of 2 hours solo and 5 hours dual training from the current 2 hours solo and 10 hours dual training. The petitioner also requests raising the time allowed for obtaining the final 3 hours of dual training to 90 days rather than the current 60 days before the date of the test.

[FR Doc. E6–8291 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2006–13]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 19, 2006.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA–2006–24633] by any of the following methods:

- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal holidays.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Leslie B. Taylor (816–329–4134), Small Airplane Directorate (ACE–111), Federal Aviation Administration, 901 Locust, Room 301, Kansas City, MO 64106; or John Linsenmeyer (202–267–5174), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

Issued in Washington, DC, on May 22, 2006.

Anthony F. Fazio,

Director, Office of Rulemaking.

Petitions For Exemption

Docket No.: FAA–2006–24633.
Petitioner: Liberty Aerospace Inc.
Sections of 14 CFR Affected: 14 CFR 23.562.

Description of Relief Sought: To allow the Liberty Model XL–2 to be certified in the Normal Category of 14 CFR part 23 without performing the dynamic seat testing specified in § 23.562. Liberty Aerospace requests to demonstrate mitigating factors.

[FR Doc. E6–8292 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2006–16]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 19, 2006.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA–2006–24622, FAA–2006–24623, FAA–2006–24714, and FAA–2006–24742] by any of the following methods:

- *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400

Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.

• *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: John Linsenmeyer (202) 267–5174 or Sue Lender (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on May 22, 2006.

Anthony F. Fazio,

Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2006–24622.
Petitioner: Experimental Aircraft Association (EAA), Inc.
Section of 14 CFR Affected: 14 CFR 45.27(e)
Description of Relief Sought: To allow alternative placement of nationality and registration marks for powered parachute and weight-shift control aircraft, such as on a horizontal or vertical structural component.

Docket No.: FAA–2006–24623.
Petitioner: Experimental Aircraft Association (EAA), Inc.
Section of 14 CFR Affected: 14 CFR 47.3(b), 61.3, 61.45(a), 91.203(a)(1), and 91.203(b).
Description of Relief Sought: To allow owners and operators of ultralight vehicles to operate under the provisions of 14 CFR part 103 while completing registration, certification, and maintenance tasks for those ultralight vehicles. The exemption, if granted, would also permit operations under 14 CFR part 103 while completing airman certification tasks.

Docket No.: FAA–2006–24714.
Petitioner: San Diego Police.
Section of 14 CFR Affected: 14 CFR 45.29(b)(3).
Description of Relief Sought: To allow the San Diego Police to operate Eurocopter AS350B3 aircraft using nationality and registration marks that are smaller than 12 inches tall.

Docket No.: FAA–2006–24742.
Petitioner: Experimental Aircraft Association (EAA), Inc.
Section of 14 CFR Affected: 14 CFR 43.3(g) and 43.7 (f) and (h).
Description of Relief Sought: To allow holders of sport pilot and recreational pilot airman certificates to perform preventive maintenance on type certificated aircraft.

[FR Doc. E6–8295 Filed 5–26–06; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Performance-Based Operations Aviation Rulemaking Committee

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: This document announces a public meeting in which the Federal Aviation Administration (FAA) and members of the Performance-Based Operations Aviation Rulemaking Committee (PARC) will discuss implementing the performance-based National Airspace System. The first day of the meeting will focus on performance-based operations. The second day of the meeting will focus on navigation infrastructure capabilities.

DATES: The public meeting will be held July 25–26, 2006 in Vienna, VA, and will begin at 8:30 a.m. each day. Registration will begin at 7:30 a.m. each day.

ADDRESSES: The public meeting will be held at the Sheraton Premiere Tysons Corner, 8661 Leesburg Pike, Vienna, Virginia 22182, Phone (703) 448–1234, Fax (703) 610–8293

The FAA will post an electronic copy of informational materials for the meeting, including a detailed agenda and information about hotel reservations, at *http://www.faa.gov/news/conferences/parc_2006.*

FOR FURTHER INFORMATION CONTACT: Cindy Smith, CMP Meeting Services, 3505 Vernon Woods Drive, Summerfield, NC 27358, Phone: 336–644–1888, Fax: 336–644–6205, Mobile: 336–451–0553, e-mail: *csmith@cmpmeetings.com.*

SUPPLEMENTARY INFORMATION: The public meeting will be held at the Sheraton Premiere Tysons Corner, 8661 Leesburg Pike, Vienna, Virginia 22182, Phone (703) 448–1234, Fax (703) 610–8293.

The purpose of the meeting is to give attendees the opportunity to be briefed on the implementation of performance-based navigation. The FAA Administrator originally chartered the PARC in February 2004, and recently extended the charter for another 2 years.

The general discussion items on the first day include: (1) An overview of the PARC's role and activities; (2) an overview of the updated Roadmap for Performance-Based Navigation, including achievements and what is ahead; (3) a review of enabling operational criteria and standards, including discussion of Advisory Circular (AC) 90–100, U.S. Terminal and En Route Area Navigation (RNAV) Operations and AC 90–101, Approval Guidance for RNP Procedures with SAAAR; (4) PARC activity reports from working groups and action teams; (5) a panel discussion on RNAV, Required Navigation Performance (RNP) Implementation Challenges and Experiences, and Localizer Performance with Vertical Guidance (LPV); and (6) Future avionics and aircraft manufacturer perspectives.

The focus for the second day will be on the provision of navigation services and the Navigation Evolution Roadmap to transition the infrastructure through the year 2025. The general format will consist of short briefings followed by panel discussions. The subjects will include: (1) Current state of the Global Positioning System (GPS), Satellite-Based Augmentation Systems (SBAS), Ground-Based Augmentation Systems (GBAS), overview of the Navigation Evolution Roadmap; (2) future navigation services and impacts on aircraft operations, avionics, and global integration; (3) industry perspectives and discussion on coordination of efforts; and (4) a wrap up of both days and how these efforts are tied together.

Attendance at the Public Meeting

The meeting will be open to all people who have asked in advance to attend the meeting or who register on the day of the meeting (between 7:30 a.m. and 8:30 a.m.), subject to availability of space in the meeting room. To register in advance, you should submit your request to Cindy Smith, CMP Meeting Services, as listed in the section titled **FOR FURTHER INFORMATION CONTACT**.

Background

The FAA has committed to implementing performance-based airspace operations. Given this commitment, there are significant issues with industry dynamics; new technologies; new aircraft types/capabilities and configurations and current operations; airspace use;

airports; infrastructure; economics; and the environment. These complex issues mandate a comprehensive review and possible revision of existing regulatory criteria and guidance materials. Where existing criteria and guidance is inadequate or nonexistent, there will be the requirement to develop and implement new regulatory criteria and the guidance material needed by all stakeholders. The PARC provides a forum for the U.S. aviation community to discuss, prioritize, and resolve issues, provide direction for U.S. flight operations criteria, and produce U.S. consensus positions for global harmonization. The FAA Administrator issued the PARC charter on February 19, 2004 and was recently extended for an additional 2 years.

Public Meeting Procedures

Persons who plan to attend the meeting should be aware of the following procedures set up for this meeting:

1. There will be no admission fee or other charge to attend or to participate in the public meeting. The meeting will be open to all people who have asked in advance to attend the meeting or who register on the day of the meeting (between 7:30 a.m. and 8:30 a.m.), subject to availability of space in the meeting room.

2. Representatives from the FAA and PARC members will conduct the public meeting.

3. Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

Issued in Washington, DC, on May 22, 2006.

James J. Ballough,

Director, Flight Standards Service.

[FR Doc. E6–8293 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2006–24903]

Notice of Request for the Extension of Currently Approved Information Collections

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: The Federal Transit Administration invites public comments about our intention to request the Office of Management and Budget's (OMB) approval to renew the following information collections:

(1) Nondiscrimination as it Applies to FTA Grant Programs.

(2) Title VI as it Applies to FTA Grant Programs.

The collections involve our Nondiscrimination and Title VI Programs. The information to be collected for the Nondiscrimination Program is necessary to ensure that any employee or applicant for employment is not discriminated against on the basis of race, color, creed, sex, national origin, age or disability. The information to be collected for the Title VI Program is necessary to ensure that service and benefits are provided nondiscriminatorily without regard to race, color, or national origin. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted before July 31, 2006.

ADDRESSES: You may mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590; telefax comments to (202) 493–2251; or submit electronically at *http://dms.dot.gov*. All comments should include the docket number in this notice's heading. All comments may be examined and copied at the above address from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you desire a receipt, you must include a self-addressed, stamped envelope or postcard or, if you submit your comments electronically, you may print the acknowledgement page.

FOR FURTHER INFORMATION CONTACT: Mr. David Schneider, FTA Office of Civil Rights, (202) 493–0175.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of these information collections, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of these information collections.

Title: Nondiscrimination as it Applies to FTA Grant Programs.

OMB Control No.: 2132–0542.

Background: All entities receiving Federal financial assistance from FTA are prohibited from discriminating against any employee or applicant for employment because of race, color, creed, sex, national origin, age, or disability. To ensure that FTA's equal employment opportunity (EEO) procedures are followed, FTA requires grant recipients to submit written EEO plans to FTA for approval. FTA's assessment of this requirement shows that formulating, submitting, and implementing EEO programs should minimally increase costs for FTA applicants and recipients.

To determine a grantee's compliance with applicable laws and requirements, grantee submissions are evaluated and analyzed based on the following criteria. First, an EEO program must include an EEO policy statement issued by the Chief Executive Officer covering all employment practices, including recruitment, selection, promotions, terminations, transfers, layoffs, compensation, training, benefits, and other terms and conditions of employment. Second, the policy must be placed conspicuously so that employees, applicants, and the general public are aware of the agency's EEO commitment.

The data derived from written EEO and affirmative action plans will be used by the Office of Civil Rights in monitoring grantees' compliance with applicable EEO laws and regulations. This monitoring and enforcement activity will ensure that minorities and women have equitable access to employment opportunities and that recipients of federal funds do not discriminate against any employee or applicant because of race, color, creed, sex, national origin, age, or disability.

Respondents: FTA grant recipients.

Estimated Annual Burden on Respondents: 15.5 hours for each of the 150 EEO submissions.

Estimated Total Annual Burden: 2,325 hours.

Frequency: On occasion, every 3 years, annually.

Title: Title VI as it Applies to FTA Grant Programs.

OMB Control No.: 2132–0542.

Background: Section 601 of Title VI of the Civil Rights Act of 1964 states: ''No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.'' This information collection is required by the Department of Justice (DOJ) Title VI Regulation, 28 CFR part 42, subpart F (Section 42.406),

and DOT Order 1000.12. FTA policies and requirements are designed to clarify and strengthen these regulations. This requirement is applicable to all applicants, recipients, and subrecipients receiving Federal financial assistance. Experience has demonstrated that a program requirement at the application stage is necessary to assure that benefits and services are equitably distributed by grant recipients. The requirements prescribed by the Office of Civil Rights accomplish that objective while diminishing possible vestiges of discrimination among FTA grant recipients. FTA's assessment of this requirement indicated that the formulation and implementation of the Title VI program should occur with a decrease in costs to such applicants and recipients.

All FTA grant applicants, recipients, and subrecipients are required to submit applicable Title VI information to the FTA Office of Civil Rights for review and approval. If FTA did not conduct pre-award reviews, solutions would not be generated in advance and program improvements could not be integrated into projects. FTA's experience with pre-award reviews for all projects and grants suggests this method contributes to maximum efficiency and cost effectiveness of FTA dollars and has kept post-award complaints to a minimum. Moreover, the objective of the Title VI statute can be more easily attained and beneficiaries of FTA funded programs have a greater likelihood of receiving transit services and related benefits on a nondiscriminatory basis.

Respondents: FTA grant recipients.

Estimated Annual Burden on Respondents: Approximately 15.6 hours for each of the 316 Title VI respondents.

Estimated Total Annual Burden: 4,942 hours.

Frequency: Annual.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for FTA's performance; (2) the accuracy of the estimated burden; (3) ways for FTA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: May 24, 2006.

Ann Linnertz,

Acting Associate Administrator for Administration.

FR Doc. E6–8289 Filed 5–26–06; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 19, 2006.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 29, 2006 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1994.

Type of Review: Extension.

Title: Notice 2006–28, Energy Efficient Home Credit; Manufactured Homes.

Description: This notice set forth a process under which a taxpayer who constructs a manufactured home may obtain a certification that the dwelling unit is an energy efficient home that satisfies the requirements of Section 45L(c)(1)(a) and (B) of the Internal Revenue Code. This notice is intended to provide (1) guidance concerning the methods by which taxpayers can construct dwelling units to meet the energy efficiency requirements of Section 45L and certify such units for purposes of the credit, and (2) guidance concerning which software programs can be used to complete the calculation necessary for claiming the credit.

Respondents: Individuals or households.

Estimated Total Burden Hours: 60 hours.

OMB Number: 1545–1995.

Type of Review: Extension.

Title: Notice 2006–27, Certification of Energy Efficient Home Credit.

Description: This notice set forth a process under which a taxpayer who constructs a dwelling unit (other than a manufactured home) may obtain a certification that the dwelling unit is an energy efficient home that satisfies the requirements of Section 45L(c)(1)(a) and (B) of the Internal Revenue Code. This notice is intended to provide (1) guidance concerning the methods by which taxpayers can construct dwelling units to meet the energy efficiency requirements of Section 45L and certify such units for purposes of the credit, and (2) guidance concerning which software programs can be used to complete the calculation necessary for claiming the credit.

Respondents: Individuals or households.

Estimated Total Burden Hours: 135 hours.

Clearance Officer: Glenn P. Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224. (202) 622–3428.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503. (202) 395–7316.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E6–8202 Filed 5–26–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Electronic Tax Administration Advisory Committee (ETAAC)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of open meeting.

SUMMARY: In 1998 the Internal Revenue Service established the Electronic Tax Administration Advisory Committee (ETAAC). The primary purpose of ETAAC is for industry partners to provide an organized public forum for discussion of electronic tax administration issues in support of the overriding goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC offers constructive observations about current or proposed policies, programs, and procedures, and suggests improvements. Listed is a summary of the agenda along with the planned discussion topics.

Summarized Agenda

9 a.m. Meeting Opens

11:30 a.m. Meeting Adjourns

The planned discussion topic is:

(1) Presentation of the 2006 ETAAC Report.

Note: A Last-minute change to the planned discussion topic is possible and could prevent advance notice.

DATES: There will be a meeting of ETAAC on Wednesday, June 14, 2006. This meeting will be open to the public, and will be in a room that accommodates approximately 40 people, including members of ETAAC and IRS officials. Seats are available to members of the public on a first-come, first-served basis.

ADDRESSES: The meeting will be held at the Embassy Suites Hotel (Capital A Meeting Room), 900 10th Street, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: To have your name put on the guest list and to receive a copy of the agenda or general information about ETAAC, please contact Roxanne Barkley at 202–283–0629 or at *etaac@irs.gov* by Wednesday, June 7, 2006 Notification of intent should include your name, organization and telephone number. Please spell out all names if you leave a voice message.

SUPPLEMENTARY INFORMATION: ETAAC reports to the Director, Electronic Tax Administration, the executive responsible for the electronic tax administration program. Increasing participation by external stakeholders in the development and implementation of the strategy for electronic tax administration, will help achieve the IRS achieve the goal that paperless filing should be the preferred and most convenient method of filing tax and information returns.

ETAAC members are not paid for their time or services, but consistent with Federal regulations, they are reimbursed for their travel and lodging expenses to attend the public meetings, working sessions, and an orientation each year.

Dated: May 22, 2006.

Kim A. McDonald,

Acting Director, Strategic Services Division.

[FR Doc. E6–8228 Filed 5–26–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–4: OTS Nos. 05174, H3632, H3633, and H4286]

First Federal Savings and Loan Association of Edwardsville, First Federal Financial Services, MHC, First Federal Financial Services, Inc., and First Cloverleaf Financial Corp., Edwardsville, Illinois; Approval of Conversion Application

Notice is hereby given that on May 15, 2006, the Assistant Managing Director, Examinations and Supervision—Operations, Office of Thrift Supervision (OTS), or her designee, acting pursuant to delegated authority, approved the application of First Federal Financial Services, MHC, and First Federal Savings and Loan Association of Edwardsville, Edwardsville, Illinois, to convert to the stock form of organization. Copies of the application are available for inspection by appointment (phone number: 202–906–5922 or e-mail: *Pulbic.Infor@OTS.Treas.gov*) at the Public Reading Room, 1700 G Street, NW., Washington, DC 20552, and OTS Southeast Regional Office, 1475 Peachtree Street, NE., Atlanta, GA 30309.

Dated: May 23, 2006.

By the Office of Thrift Supervision.

Sandra E. Evans,

Legal Information Assistant.

[FR Doc. 06–4902 Filed 5–26–06; 8:45 am]

BILLING CODE 6720–01–M

UNITED STATES INSTITUTE OF PEACE

Notice of Meeting

Date and Time: Wednesday, June 14, 2006, 9:15 a.m.–4 p.m.

Location: 1200 17th Street, NW., Suite 200, Washington, DC 20036–3011.

Status: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

Agenda: June 14, 2006 Board Meeting; Approval of Minutes of the One Hundred Twenty-Second Meeting (March 30, 2006) of the Board of Directors; Chairman's Report; President's Report; Selection of Solicited Grant Topics for March 2006 Grants Cycle; Selection of National Peace Essay Contest Winners; Review and Discussion of Select USIP Policies; Other General Issues.

Contact: Tessie F. Higgs, Executive Office, Telephone: (202) 429–3836.

Dated: May 24, 2006.

Patricia P. Thomson,

Executive Vice President, United States Institute of Peace.

[FR Doc. 06–4954 Filed 5–25–06; 10:41am]

BILLING CODE 6820–AR–M

Corrections

Federal Register

Vol. 71, No. 103

Tuesday, May 30, 2006

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 202

[DoD–2006–OS–0077; 0790–AG31]

Department of Defense Restoration Advisory Boards

Correction

In rule document 06–4246 beginning on page 27610 in the issue of May 12, 2006, make the following corrections:

1. On page 27610, in the second column, under the heading **SUMMARY**, in the 10th line, ''regulation'' should read ''regulations''.

2. On the same page, in the third column, under the heading **II. Background**, in the third paragraph, in the seventh line, ''reacquire'' should read ''require''.

3. On page 27611, in the first column, in the second full paragraph, in the ninth line, ''stakeholde's'' should read ''stakeholder's''.

4. On page 27612, in the third column, in the second full paragraph, in the ninth line, ''prgram'' should read ''program''.

5. On the same page, in the same column, in the same paragraph, in the second to the last line, ''requrie'' should read ''require ''.

6. On page 27613, in the first column, in the third paragraph, in the last line, ''community'' should read ''Community''.

7. On the same page, in the same column, under the heading *E. 202.6. Selecting Co-Chairs*, in the fourth line, ''incoroporate'' should read ''incorporate''.

8. On the same page, in the same column, under the heading *F. 202.7.* Developing Operating Procedures'', in the 10th line, ''defiend'' should read ''defined''.

9. On the same page, in the same column, under the same heading, in the 13th line, ''the'' should read ''The''.

10. On page 27614, in the first column, under the heading *H. 202.9. Conducting RAB Meetings*, in the second paragraph, in the fifth line, ''comments'' should read ''Comments''.

11. On the same page, in the third column, in the second full paragraph, in the seventh line, ''may be lead '' should read ''may lead''.

§ 202.1 [Corrected]

12. On page 27618, in the second column, in §202.1(c)(7), in the third line, ''governments'' should read ''government''.

13. On the same page, in the third column, in the same section, under paragraph (f), in the second to last line, ''of'' should read ''or''.

§ 202.2 [Corrected]

14. On the same page, in the same column, in §202.2(a)(2), in the last line, ''RAB.'' should read ''RAB,''.

15. On page 27619, in the first column, in the same section, under paragraph (a)(4)(v), in the last line, ''installations'' should read ''installation's ''.

§ 202.4 [Corrected]

15. On the same page, in the second column, in §202.4(b), in the third line, ''Dod'' should read ''DoD''.

§ 202.6 [Corrected]

16. On the same page, in the same column, in §202.6, paragraph ''b.'' should read ''(b)''.

§ 202.9 [Corrected]

17. On the same page, in the third column, in §202.9(a), in the last line, ''will'' should read ''shall''.

§ 202.11 [Corrected]

18. On page 27621, in the second column, in §202.11(a)(3), in the first line, ''related'' should read ''relates ''.

[FR Doc. C6–4246 Filed 5–26–06; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
May 30, 2006

Part II

Nuclear Regulatory Commission

10 CFR Parts 170 and 171
Revision of Fee Schedules; Fee Recovery for FY 2006; Final Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN 3150–AH83

Revision of Fee Schedules; Fee Recovery for FY 2006

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, and annual fees charged to its applicants and licensees. The amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), as amended, which requires that the NRC recover approximately 90 percent of its budget authority in fiscal year (FY) 2006, less the amounts appropriated from the Nuclear Waste Fund (NWF) and for Waste Incidental to Reprocessing (WIR) activities. The required fee recovery amount for the FY 2006 budget is approximately $624 million, which is increased by approximately $0.9 million to account for billing adjustments, resulting in a total of approximately $625 million that must be recovered through fees in FY 2006.

DATES: *Effective Date:* July 31, 2006.

ADDRESSES: The comments received and the NRC's work papers that support these final changes to 10 CFR parts 170 and 171 are available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail to *pdr@nrc.gov.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR.

Comments received may also be viewed via the NRC's interactive rulemaking Web site (*http://ruleforum.llnl.gov*). This site provides the ability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, 301–415–5905; e-mail CAG@nrc.gov.

For a period of 90 days after the effective date of this final rule, the work papers may also be examined at the NRC Public Document Room, Room O–1F22. One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738. The PDR reproduction contractor will copy documents for a fee.

FOR FURTHER INFORMATION CONTACT: Tammy Croote, telephone 301–415–6041; Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Background

For FYs 1991 through 2000, OBRA–90 (Pub. L. 101–508), as amended, required that the NRC recover approximately 100 percent of its budget authority, less the amount appropriated from the U.S. Department of Energy (DOE) administered NWF, by assessing fees. To address fairness and equity concerns related to charging NRC license holders for agency budgeted costs that do not provide a direct benefit to the licensee, the FY 2001 Energy and Water Development Appropriations Act (Pub. L. 106–377) amended OBRA–90 to decrease the NRC's fee recovery amount by 2 percent per year beginning in FY 2001, until the fee recovery amount was 90 percent in FY 2005. The FY 2006 Energy and Water Development Appropriations Act (EWDAA) (Pub. L. 109–103), as amended by the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Pub. L. 109–148), extended this 90 percent fee recovery requirement through FY 2006. As a result, the NRC is required to recover approximately 90 percent of its FY 2006 budget authority, less the amounts appropriated from the NWF and for WIR activities, through fees. The required fee recovery amount for the FY 2006 budget is approximately $624 million, which is increased by approximately $0.9 million to account for billing adjustments, resulting in a total of approximately $625 million that must be recovered through fees in FY 2006.

The NRC assesses two types of fees to meet the requirements of OBRA–90, as amended. First, license and inspection fees, established in 10 CFR part 170 under the authority of the Independent Offices Appropriation Act of 1952 (IOAA), 31 U.S.C. 9701, recover the NRC's costs of providing special benefits to identifiable applicants and licensees. Examples of the services provided by the NRC for which these fees are assessed are the review of applications for new licenses and, for certain types of existing licenses, the review of renewal applications, the review of amendment requests, and inspections. Second, annual fees established in 10 CFR part 171 under the authority of OBRA–90, as amended, recover generic and other regulatory costs not otherwise recovered through 10 CFR part 170 fees.

The amount of the NRC's required fee collections are set by law and are therefore outside the scope of this rulemaking. In FY 2006, the NRC's total fee recoverable budget increased by $83.4 million from FY 2005 in response to increased workload. As such, most annual fees increased. The budget, including the increases, was allocated to the fee classes that the budgeted activities support. As discussed in more detail below, another factor affecting the amount of annual fees for each fee class is the estimated collection under part 170.

Additional factors will affect the NRC's required fee recovery in future years. For example, the Energy Policy Act of 2005 (Pub. L. 109–58) permanently extends the 90 percent fee recovery requirement beginning in FY 2007. The Energy Policy Act also permanently removes certain homeland security activities from the fee base beginning in FY 2007. Section 637 states that the NRC will not recover in fees:

> (iv) amounts appropriated to the Commission for homeland security activities of the Commission for the fiscal year, except for the costs of fingerprinting and background checks required by section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) and the costs of conducting security inspections.

Under this legislative requirement, the budgeted resources for all generic homeland security activities (those activities that support an entire license fee class or classes of licensees, such as rulemakings, guidance development, and vulnerability assessments) will be removed from the fee base beginning with the FY 2007 fee rulemaking. Under the NRC's authority under the IOAA, the NRC will continue to bill under part 170 for all licensee-specific homeland security-related services provided, including security inspections and security plan reviews. This legislative

change will provide fee relief for NRC licensees. However, the net change in annual fees in FY 2007 will also depend on other factors, especially the amount of the NRC's FY 2007 appropriated budget and the allocation of these resources to the license fee classes and surcharge categories (surcharge categories include the resources associated with activities for which the NRC does not charge fees, as described in more detail in Section III of this document), as well as any other policy decisions of the Commission.

II. Response to Comments

The NRC published the FY 2006 proposed fee rule on February 10, 2006 (71 FR 7350) to solicit public comment on its proposed revisions to 10 CFR parts 170 and 171. The NRC received three comments dated on or before the close of the comment period (March 13, 2006) and four additional comments thereafter, for a total of seven comments that were considered in this fee rulemaking. The comments have been grouped by issues and are addressed in a collective response.

A. Information Provided by NRC in Support of Proposed Rule

Comment. Several commenters requested a more detailed explanation of significant fee increases. These comments requested that the NRC provide licensees and the public with a reasonably detailed listing of the major activities and their associated impact on the fees. These commenters expressed concern that the information provided to support the proposed rule was not adequate to allow for the full evaluation and comment on the proposed fee rule. While these comments acknowledged the availability of the work papers that provided information on the FY 2006 budget, they requested NRC provide an itemized accounting of the major elements that comprise the annual assessment under part 171, including a detailed description of the major contracts currently outstanding. One set of comments set forth 26 specific questions on why budgeted resources increased from FY 2005 to FY 2006 in a number of areas. One comment stated that while the proposed rule stated that the FY 2006 included budget increases for new plant licensing and security, no information was available that would allow for the identification of the contribution of either security or new plant licensing toward the fee increase.

These commenters further stated that industry's ability to evaluate the NRC's application of resources and priorities is impeded because the NRC allocated 70 percent of its recoverable budget to the generic assessment under part 171, while only 30 percent is recovered under the discrete fee provisions of part 170. One commenter stated that there was an expectation that generic fees would be reduced as new plant applications are filed and costs are charged directly to an applicant under part 170.

Response. Consistent with the requirements of OBRA–90, as amended, the purpose of this rulemaking is to establish fees necessary to recover 90 percent of the NRC's FY 2006 budget authority, less the amounts appropriated from the NWF and for WIR activities, from applicants and the various classes of NRC licensees. As with each year's fee rulemaking, the FY 2006 proposed fee rule described the types of activities included in the proposed fees and explained how the fees were calculated to recover the budgeted costs for those activities. Additional summary calculations were provided in the FY 2006 proposed fee rule: For each fee class, a table was presented showing the aggregate calculations (*e.g.*, total budgeted resources and estimated part 170 collections). For each fee class, there was also a summary explanation provided for the changes in fees and budgeted resources.

In addition to the information provided in the proposed rule, the supporting work papers were available for public examination in ADAMS and, during the 30-day comment period, in the NRC Public Document Room at One White Flint North, 11555 Rockville Pike, Rockville, MD. The work papers show the total budgeted full time equivalent (FTE) and contract budgeted resources at the planned activity level for all agency activities. These papers present an itemized accounting of all the budgeted resources included in the fees, at the lowest level of detail available agency-wide. The papers included extensive information detailing the allocation of the budgeted costs for each planned activity within each program to the various classes of licenses, as well as information on categories of budgeted costs included in the hourly rates.

Also to assist commenters, the NRC made available NUREG–1100, Volume 21, ''Performance Budget: Fiscal Year 2006'' (February 2005), which discusses the NRC's budget for FY 2006, including the activities to be performed in each program. This document is available on the NRC public Web site at *http://www.nrc.gov/reading-rm.html.* The extensive information available provided the public with sufficient information on how NRC calculated the proposed fees. Additionally, the contact listed in the proposed fee rule was available during the public comment period to answer any questions that commenters had on the development of the proposed fees. Therefore, the NRC believes that ample information was available on which to base constructive comments on the proposed revisions to parts 170 and 171 and that its fee schedule development is a transparent process.

In the FY 2006 proposed fee rule work papers, the NRC improved the organization of some of the reports to allow for increased transparency. For example, a separate document was created for each fee class and surcharge category to show the budget allocations for FY 2006 and FY 2005 at the planned activity level, thereby making it easier to see the reasons for any fee changes between FY 2006 and FY 2005. Accordingly, the proposed rule showed the total value of budgeted resources allocated to a fee class and described the major reasons for any fee change(s), and the supporting work papers clearly set forth the changes in budgeted resources for each class at the planned activity level for both FTE and contract dollars. For example, the proposed fee rule stated that the power reactor annual fee increased due to an increase in budgeted resources for activities such as regulatory infrastructure for new reactor licensing activities (other examples were also provided). The work papers showed that the budgeted resources for that planned activity increased by approximately 42 FTE and $2.9 million in FY 2006, as compared to FY 2005.

In response to the comments with numerous detailed questions requesting information on why the budget increased for certain planned activities from FY 2005 to FY 2006, or requesting additional information on the use of resources under a specific planned activity, the NRC notes again that the purpose of this rulemaking is to establish fees to recover most of the NRC's budget, as required by OBRA–90, as amended. The NRC's budget and the manner in which the NRC carries out its activities are not within the scope of this rulemaking. The NRC's budget is submitted to the Office of Management and Budget (OMB) and Congress for review and approval. The Congressional budget process involves meetings, testimony, press briefings, etc. The Congressionally-approved budget resulting from this process reflects the resources deemed necessary for NRC to carry out its statutory obligations.

The purpose of the FY 2006 fee rulemaking, as with prior year fee rulemakings, is to establish fees in a fair and transparent manner to recover the

required portion of the NRC's budget. As such, the purpose of these rules is not to justify the use or need for current year budgeted resources, but to describe and take comment on the allocation of these resources for fee calculation and purposes. For example, the rule and supporting work papers are not intended to justify why the budgeted resources for a given planned activity increased by a particular percentage. (Note, however, the Performance Budget for each fiscal year does provide the objectives of the budget and how it supports the agency's Strategic Plan goals and strategies, and this justification is part of the Congressional approval and Executive Branch review process.) The rule and work papers show the value of the approved budgeted resources, and most importantly for fee calculation purposes, the fee classes and surcharge categories to which these resources are allocated. As mentioned previously, the work papers provide this information at the lowest level of detail available at the agency-level, which is by planned activity.

Regarding the comments that expressed concern that too much of the NRC's budget was designated for recovery under part 171, as discussed in previous fee rulemakings, the NRC is not at liberty to allocate fees indiscriminately between parts 170 and 171, because fee allocation is controlled by statute. The NRC assesses part 170 fees under the IOAA, consistent with implementing OMB Circular A–25, ''User Charges,'' to recover the costs incurred from each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public. Generic costs that do not provide special benefits to identifiable recipients cannot be recovered under part 170. Further, the NRC notes that, as required by OBRA–90, as amended, the part 171 annual fee recovery amounts are offset by the estimated part 170 fee collections. The NRC's work papers clearly set forth the components of these generic costs and how those costs are recovered through annual fees. Additionally, the NRC notes that it has taken action to maximize the amount recovered under part 170, consistent with existing law and agency policy. For example, in FY 1998 the NRC began charging part 170 fees for all resident inspectors' time (63 FR 31840; June 10, 1998) and in FY 1999 the NRC started charging part 170 fees for all project manager activities associated with oversight of the assigned license or plant (64 FR 31448; June 10, 1999). In FY 2003, the NRC amended its regulations to allow the NRC to recover costs associated with contested hearings on licensing actions involving U.S. Government national security initiatives through part 170 fees assessed to the affected applicant or licensee (67 FR 64033; October 17, 2002). Included under this provision are activities involving the fabrication and use of mixed oxide fuel. Additionally, beginning with the FY 2005 fee rule (70 FR 30526; May 26, 2005), the NRC revised its hourly rate calculation formula to better reflect actual agency costs, resulting in higher hourly rates. These higher hourly rates increased fee recovery under part 170.

Similarly, in response to the comment that reactor generic fees should be reduced as new plant applications are filed and costs are charged directly to an applicant under part 170, the Commission notes that it recovers (and will continue to recover) the costs of all specific work relating to the review of new reactor or design applications and pre-application activities through part 170 fees. For example, the FY 1999 policy that established part 170 fee recovery for all project managers assigned to a license or plant, applies to project managers assigned to new reactor applications and pre-application reviews. All other specific activities for these reviews are also recovered through part 170 fees. This part 170 fee recovery reduces the amount of budgeted resources that must be recovered through annual fees to reactor licensees.

B. Specific Part 170 Issues

1. Hourly Fees

Comment. Several commenters expressed concerns about the increases in the NRC's hourly rates associated with the proposed changes to 10 CFR 170.20. These commenters noted that the increases exceeded the rate of inflation, and requested the NRC investigate ways to reduce the hourly fees.

Response. The NRC's hourly rates are based on budgeted costs and must be established each year to meet the NRC's fee recovery requirements. As discussed in the proposed fee rule, the increases to the Nuclear Reactor Safety (Reactor) Program and Nuclear Materials and Waste Safety (Materials) Program rates are due to the recent Government-wide pay raise and the more accurate allocation of agency overhead to these programs and fee-exempt activities. The hourly rates are calculated to recover all of the budgeted costs supporting the services provided under part 170, including all programmatic and agency overhead, consistent with the full cost recovery concept emphasized in OMB's Circular A–25, ''User Charges.'' The NRC did not receive any comments on ways to revise the hourly rate calculation methodology, and notes that other comments, on this fee rulemaking and others, have consistently supported the NRC in its efforts to collect more of its budget through part 170 fees-for-services vs. part 171 annual fees. Therefore, the NRC is retaining the hourly rate formula as presented in the FY 2006 proposed fee rule. This results in hourly rates of $217 for the Reactor Program, and $214 for the Materials Program. The NRC recognizes that the higher hourly rates will have a greater impact on licensees that receive more part 170 services, but believes this is appropriate because the new rates more accurately reflect the costs of providing these services.

2. Invoice Information

Comment. Several commenters stated that the Commission should continue its efforts to provide invoices that contain more meaningful descriptions of the work done by staff and especially contractors. These comments stated that in the private sector, adequate explanations, dates and times are provided to clients for clients to fully understand the work performed. One commenter stated that if the agency performs a large amount of work on a submittal from a single licensee, billings should be frequent so that a licensee is better able to track costs.

Response. The NRC appreciates the comments on this topic, and believes that sufficient information is provided to licensees or applicants on which to base payment of invoices. The NRC's invoices for full-cost licensing actions and inspections contain details such as the type of service for which the costs are being billed, the name of the person or contractor performing the service, the date range the service was performed, the number of professional staff-hours expended in providing the service, the hourly rate, and the contractual costs incurred. These costs are billed quarterly, which the NRC believes is an adequate frequency to track and pay for these costs. Additionally, a licensee or applicant who does not understand the charges, or who would like more information to interpret the bill, may request additional information from the NRC regarding the specific bill in question. The NRC will provide all available data used to support the bill in response to this type of request.

3. Part 170 Fees to Federal Agencies

Comment. One commenter supported the Commission's proposal to charge Federal agencies for specific services provided by the NRC, agreeing that it is fair and appropriate to assess these fees to Federal agencies in the same manner as other NRC licensees.

Response. The NRC appreciates the support for this proposal, and is enacting this policy change in this rulemaking, as described in more detail in Section III.A.3.

C. Specific Part 171 Issues

1. Annual Fees for Uranium Recovery Licensees

Comment. The NRC received four comments objecting to the large increase in the annual fees for uranium recovery licensees. Some of these commenters expressed concerns that the FY 2006 proposed fee structure appears to unfairly discriminate against the uranium recovery section by imposing a 120 percent increase in annual fees, and requested that any required fee increase be similar to increases for other classes of licensees. Some commenters stated that there continues to be a lack of a reasonable relationship between the cost to uranium recovery licensees of NRC's regulatory program and the benefit derived from these services. Additionally, some commenters stated that the NRC needs to address the issue of decreasing numbers of uranium recovery licensees. Specifically, the concern was raised that as more states become Agreement States and/or additional sites are decommissioned, the number of NRC regulated sites continues to decline, leaving fewer licensees to pay a larger share of the NRC's regulatory costs.

Some of these commenters acknowledged that the reallocation of existing FTE to uranium recovery licensing and inspection activities from other activities may be warranted, considering market forces and expected licensing activities. These commenters stated that fee increases might be more acceptable if they were accompanied by more timely licensing actions, but some commenters expressed concerns that there are still too few NRC staff on uranium recovery issues, and some of these staff are relatively new to the field. Some commenters also stated that the continued existence of remaining uranium recovery facilities is in the public interest given the renewed interest in nuclear power, and stated that large fee increases for these facilities is not in the public interest. These commenters noted a previous Commission comment which indicated the existence of a uranium recovery facility was in the public interest. One commenter noted that the increased fees and uncertainty of the timely review of licensing actions makes it difficult for licensees to manage costs, which could create a chilling effect on the development of new domestic uranium recovery facilities.

Response. The NRC acknowledges that the FY 2006 uranium recovery annual fee of $65,900 is significantly higher than the annual fees charged to these facilities in FYs 2005 and 2004. (For FYs 2005 and 2004, the NRC overestimated the part 170 collections it would receive from uranium recovery facilities, which resulted in lower part 171 annual fees.) However, the FY 2006 uranium recovery annual fee amount is more similar to the annual fee amounts for FYs 2001 through 2003, when, for example, the annual fee for conventional mills ranged from approximately $53,000 to $111,000. Annual fees fluctuate from year to year based on a number of factors, including the budgeted resources for a license fee class. Additionally, because annual fees must recover all fee class resources not recovered through part 170 fees, annual fees are impacted by the part 170 fees collected from that fee class.

As explained in the proposed rule, the higher FY 2006 annual fee for uranium recovery licensees reflects an increase in budgeted resources for this fee class. The NRC appreciates the acknowledgment that this budget change may be warranted to support uranium recovery licensees. In response to the concern about the NRC's staffing of uranium recovery issues and the timeliness of the review of licensing actions, these issues are outside the scope of this rulemaking. However, as noted in the FY 2005 final fee rule (70 FR 30526; May 26, 2005), the NRC does consider market forces and expected future licensing activities in formulating its budget, and has a human resources program in place to address future agency skill needs.

In response to concerns regarding decreasing numbers of NRC licensees in light of more states becoming Agreement States, the NRC notes the concerns that the ''last NRC licensee'' may have to pay for the cost of the entire uranium recovery program are unfounded because the NRC's fee calculation methodology considers the percentage of uranium recovery licensees in Agreement States in establishing fees for the uranium recovery fee class. As explained in the FY 2005 final fee rule, the budgeted resources providing support to Agreement States or their licensees are included in total surcharge costs, which are offset by non-fee recovery funding provided by Congress. For example, if the NRC develops a rule, guidance document, or database or other tracking system, that is associated with or otherwise benefits Agreement State licensees, the costs of these activities are prorated to the surcharge according to the percentage of licensees in that fee class in Agreement States (*e.g.*, if 50 percent of uranium recovery licensees are in Agreement States, 50 percent of these regulatory infrastructure costs are included in the surcharge). Total surcharge costs are reduced by the fee relief (*i.e.*, direct appropriations from the General Treasury) provided by Congress. To address fairness and equity concerns associated with licensees paying for the cost of activities that do not directly benefit them, as noted previously, the FY 2001 Energy and Water Development Appropriations Act amended OBRA–90 to decrease the NRC's fee recovery amount by two percent per year beginning in FY 2001, until the fee recovery amount was 90 percent in FY 2005. To the extent that this fee relief is insufficient to cover all surcharge costs, these remaining surcharge costs are spread to all licensees based on their percentage of the budget. (Note generic decommissioning costs for the materials program are also included in the surcharge.)

In FY 2006, $3.5 million of the $72.8 million in total surcharge costs was not covered by the 10 percent fee relief, and therefore is included in licensees' annual fees. Eighty-four percent (the percentage of the budget associated with reactors) of the $3.5 million in net surcharge costs is included in reactor annual fees, and the remainder is spread to all other licensees' annual fees. Accordingly, NRC's uranium recovery licensees are not generally burdened with the costs of regulating Agreement State licensees or any other costs not associated with uranium recovery licensees (only to the extent that a small portion of these costs are spread to all licensees through the net surcharge). In FY 2006, the total surcharge cost allocated to the entire uranium recovery class is approximately $13,000. Because DOE is charged 50 percent of the total surcharge cost (as well as 50 percent of all generic resources associated with the uranium recovery fee class) for its UMTRCA Title I licensees, consistent with the methodology adopted in the FY 2002 final fee rule (67 FR 42612; June 24, 2002), this leaves approximately $6,500 in total surcharge costs allocated

to NRC Title II program licensees that are subject to annual fees.

This means about $1,300 of the $65,900 FY 2006 annual fee per uranium recovery license is attributable to activities that do not directly benefit these uranium recovery licensees. The remainder of the annual fee reflects the budgeted resources associated with the regulation of NRC's uranium recovery licensees, as shown in the detailed work papers made available to support the proposed rulemaking. As such, the NRC believes there is a strong relationship between the cost to uranium recovery licensees of NRC's regulatory program and the benefit derived from this program.

The NRC acknowledges that license fee classes with fewer licensees are more impacted by changes to the budget and changes to part 170 collections. The uranium recovery fee class was reduced by four licensees (two of which paid annual fees) in FY 2005 because regulatory responsibility for these licensees was transferred to the State of Utah in accordance with an Agreement under Section 274 of the Atomic Energy Act of 1954, as amended, effective August 16, 2004. There are currently six uranium recovery licensees, including a license for the DOE, paying for the generic and other regulatory costs associated with the regulation of the NRC's uranium recovery licensees. Because annual fees must recover budgeted resources for a fee class not recovered through part 170 fees, to the extent that part 170 fees do not completely recover the costs of budgeted resources for part 170 activities, these costs are included in annual fees. The fewer the licensees, the larger the impact this has on the annual fee per license. (Because these budgeted resources are for site-specific inspection and licensing activities, they are not prorated to the surcharge category of Agreement State Regulatory Support because the resources are budgeted for the purpose of supporting only NRC licensees.) The NRC does note that the increases to hourly rates enacted through this rulemaking will enable the agency to recover more of the budgeted resources for licensee-specific activities, and once implemented, will reduce costs that must be recovered through annual fees.

In response to comments about the existence of uranium recovery facilities being in the public interest, and the potential economic consequences of fees on this industry, the NRC notes it has addressed similar comments in previous fee rulemakings. The NRC has stated since FY 1991, when the 100 percent fee recovery requirement was first implemented, that it recognizes the assessment of fees to recover the agency's costs may result in a substantial financial hardship for some licensees. However, consistent with the OBRA–90, as amended, requirement that annual fees must have, to the maximum extent practicable, a reasonable relationship to the cost of providing regulatory services, the NRC's annual fees for each class of licensee reflect the NRC's budgeted cost of its regulatory services to the class. The NRC determines the budgeted costs to be allocated to each class of licensee through a comprehensive review of every planned activity in each of the agency's major program areas. Furthermore, a reduction in the fees assessed to one class of licensees would require a corresponding increase in the fees assessed to other classes. Accordingly, the NRC has not based its annual fees on licensees' economic status, market conditions, or potential economic consequences. Instead, the NRC has only considered the impacts that it is required to address by law.

While the NRC acknowledges the previous Commission comment about the existence of a uranium recovery facility being in the public interest, this does not negate the NRC's legal obligation to collect fees to recover the costs of regulating uranium recovery facilities.

2. Annual Fees for Fuel Facilities Licensees

Comment. One commenter expressed concern over the increase in annual fees for fee category 2.A.1, UF_6 conversion facilities. The commenter expressed concern that the fee increase was not explained in sufficient detail. In particular, the commenter did not believe the changes in the fuel facility fee matrix (*i.e.*, the value of the effort factors for fee category 2.A.1) were explained in enough detail to allow for informed public comment. This commenter also stated that any fees for future 10 CFR part 40 or conversion facility rulemakings not be allocated to fee category 2.A.1.

Response. The NRC established the methodology for calculating annual fees for individual fuel facilities through public notice and comment rulemaking (64 FR 31448; June 10, 1999), and the FY 2006 fee rulemaking uses this same methodology. This methodology establishes that the total budgeted resources for fuel facilities are allocated to individual fuel facility fee categories based on the effort/fee determination matrix. This methodology was also described in detail in the FY 2006 proposed fee rule. In addition, the publicly available work papers for the FY 2006 proposed rule provided detailed information on the FTE and contract resources for each planned activity that were allocated to the fuel facility fee class. The work papers also provided information on all the values of the effort factors used in the fuel facility matrix for FY 2006.

As noted in the FY 2006 proposed fee rule, the NRC revised the effort factors for the UF_6 conversion facility to better reflect the effort level associated with safeguards activities such as interim compensatory measures (ICMs). In response to the commenter's request for additional detailed information on the basis of the values of the effort factors, the NRC notes that before September 11, 2001, this UF_6 conversion facility had a '0' for safeguards and security based on the fact that the facility had no security plan with the NRC. Shortly after September 11, 2001, NRC issued an Order to this facility requiring it to implement interim security upgrades. When the NRC performed security assessments and reviewed implementation of the ICMs in 2004, NRC determined (1) this UF_6 conversion facility needed to maintain additional security measures as part of its baseline program, and (2) NRC needed to perform routine oversight of the security program including licensing review of security measures, inclusion of security measures in the license as part of license renewal, and routine inspection of security programs. Therefore, based on the new routine level of NRC effort for this facility, its score increased from '0' to '5' in the matrix used for the FY 2006 fee rule, which is 'rebaselined' each year based on the most recent assessment by the program and technical experts responsible for the regulation of these facilities. Note that because of the timing of the fee rule each year, the fuel facility fee matrix represents a 'snapshot' of expected effort levels at the beginning of the fiscal year. Therefore, a change in effort level that occurs after that 'snapshot' may not be reflected until the next year.

Finally, in response to the comment that any fees for future part 40 or conversion facility rulemakings not be allocated to fee category 2.A.1, the Commission notes that it approved the initiation of a part 40 rulemaking on ground water protection at in situ leach uranium recovery facilities on March 24, 2006 (see Staff Requirements Memorandum—COMJSM–06–0001—Regulation of Groundwater Protection at In Situ Leach Uranium Extraction Facilities; ML060830525). (While this is a part 40 rulemaking, it relates to uranium recovery facilities, not UF_6 or

other fuel facilities.) In the referenced Staff Requirements Memorandum, the Commission stated, ''The staff should plan on covering the costs of this rulemaking not through part 171 fees for existing uranium recovery licensees, but instead through the surcharge, which is assessed to all NRC licensees paying part 171 fees.'' As such, in the FY 2007 proposed fee rulemaking, the staff plans to propose to recover the costs of this rule through the surcharge. Note that the part 40 rulemaking was not budgeted for in FY 2006, and therefore there is no adjustment to the FY 2006 fees to reflect the fee recovery of that rulemaking through the surcharge. Additionally, there were no other part 40 or conversion facility rulemakings budgeted for in FY 2006, and therefore, the FY 2006 annual fee for the UF_6 conversion facility does not include any resources for these activities. The NRC will address the fee recovery of any other rulemakings that may be budgeted for in future years through its future year fee rulemakings.

3. Elimination of Fee Payment Exception for Uranium Recovery Licensees

Comment. Several commenters requested that the quarterly payment provisions for uranium recovery remain in effect, and that the NRC not begin billing these licensees annually. One commenter stated that quarterly payments allow licensees to better allocate budgetary outlays.

Response. While the NRC appreciates the concerns raised by the commenters, the NRC believes that there is insufficient justification for retaining the fee payment exception for Title II uranium recovery facilities, only. As discussed in the proposed rule, the NRC currently bills licensees' part 171 fees annually if their annual fees are less than $100,000, and quarterly if their annual fees are $100,000 or more. However, the NRC bills Class I and Class II uranium recovery licensees quarterly in accordance with § 171.19(b), regardless of the amount of their annual fee. The NRC established this payment exception for Class I and Class II uranium recovery licensees in the FY 2001 final rule (66 FR 32452; June 14, 2001) because the annual fees for these licensees had been fluctuating just above or below $100,000. Since then, uranium recovery license fees have been well below $100,000. Because the basis of the existing exception is no longer a factor, as well as that the exception is administratively burdensome to implement with the current fee billing system, the NRC is eliminating this billing exception for Class I and Class II uranium recovery licensees.

Additionally, the NRC notes that there are benefits to the annual payment of fees, which it believes further justify this change. This is because the annual payment of fees may provide for more notice of annual fee changes. When paying quarterly, the last quarterly payment of the current fiscal year's annual fee must be for the entire difference between that annual fee and the payments made in the first three quarters of that year. This payment is due as of the effective date of the final fee rule. When paying annually, licensees are billed on the anniversary month of the license. This payment practice, as established in the FY 1996 fee rule (61 FR 16203; April 12, 1996), means licensees know exactly when they will be billed each year and will know the exact fee amount in advance.

D. Other Issues

1. Recovery of Security Costs

Comment. Some commenters objected to the NRC collecting security-related costs from licensees, while acknowledging that Section 637 of the Energy Policy Act of 2005 will remove certain homeland security activities from the fee base beginning in FY 2007. One commenter mentioned that homeland security costs should be off the fee base beginning in FY 2006. Other commenters questioned whether the funds under the 'Homeland Security Unallocated' planned activity in the proposed rule have been allocated to specific activities.

Response. The NRC appreciates the concerns raised by commenters regarding homeland security costs being funded through license fees. As referenced previously, generic (*i.e.*, not site-specific) homeland security budgeted resources will be removed from the fee base beginning in FY 2007, per the Energy Policy Act of 2005. However, these resources are on the fee base in FY 2006. Therefore, the fees established in this rulemaking include homeland security budgeted resources, consistent with OBRA–90, as amended.

Regarding the question about the allocation of the 'Homeland Security Unallocated' planned activity, the NRC has now allocated these resources to specific activities, and then to the fee classes and surcharge categories which these resources support. Specifically, the $4,498,000 under the 'HLS Unallocated' planned activity in the proposed rule has been distributed as follows: (1) $808,000 to Nuclear Material Users/Homeland Security Information Technology, Control of Sources (for the Office of Nuclear Material Safety and Safeguards); (2) $420,000 to Management and Support Information Technology Compliance/ Homeland Security Information Security (for the Office of Nuclear Security and Incident Response); (3) $420,000 to Reactor Licensing/ Homeland Security Licensing/ Homeland Security Mitigating Strategies (for the Office of Nuclear Regulatory Research); and (4) $2,850,000 to Reactor Licensing/Licensing Tasks/Risk Informing the Regulatory Process (for the Office of Nuclear Regulatory Research).

As shown in the work papers, the resources for item 1 have been allocated to the materials users fee class (and prorated to the surcharge categories of Agreement State Regulatory Support and Nonprofit Educational Institutions), and the resources for items 3 and 4 have been allocated to the operating power reactor fee class. The resources for item 2 are treated as overhead, consistent with the treatment of other resources in the Management and Support Program. In the FY 2006 proposed fee rule, the resources associated with this planned activity were allocated to the fee classes in a manner consistent with how other homeland security resources were allocated.

2. NRC Budget

Comment. Several commenters stated that NRC fees should reflect NRC efficiencies and provided suggestions for reducing NRC's budget and for more efficient/different use of NRC's resources. Some of these commenters addressed expenditures on homeland security, while others suggested more generally that NRC reduce expenditures, streamline processes, or otherwise perform activities more efficiently. Some commenters suggested that changes in NRC's regulatory approach, such as the reactor oversight process, should result in a reduced budget. Some commenters included suggestions to reallocate resources dedicated to the inspection of areas of plants that have little or no safety significance, to efforts to risk-inform regulations, license new reactor designs, and process combined operating licenses for new plants. A number of comments suggested that Memorandums of Understanding between the Commission and non-Agreement States regarding the regulation of in-situ well fields would help to reduce costs to licensees, as would the expansion of performance-based licensing and the increased use of Safety and Environmental Review Panels.

Response. The NRC appreciates the importance of identifying and implementing process efficiencies on an ongoing basis. As discussed in previous fee rulemakings, NRC offices conduct process reviews every year and rely on risk-informed practices to develop cost-efficient budgets that will allow them to achieve the NRC's Strategic Plan mission objectives. Nonetheless, the NRC's budget and the manner in which the NRC carries out its activities are not within the scope of this rulemaking. Therefore, this final rule does not address the commenters' suggestions concerning the NRC's budget and the use of NRC resources. As discussed previously, the NRC's budget is submitted to OMB and Congress for review and approval. The Congressionally-approved budget resulting from this process reflects the resources deemed necessary for NRC to carry out its statutory obligations. In compliance with OBRA–90, as amended, the fees are established to recover the required percentage of the approved budget. The NRC will continue efforts to ensure that the NRC carries out its statutory obligations in an efficient manner.

3. Fees Predictability and Timing/ Requested Fee Increase Phase-Ins or Caps

Comment. Several commenters raised concerns that the timing of the issuance of the fee rule makes it difficult for licensees to plan for regulatory expenses within the framework of their normal budget cycles. One commenter specifically noted that because the NRC's fiscal year differs from the majority of licensees' fiscal years, and fee recovery is not known until after a new calendar year begins, the process forces licensees to estimate potential changes to the NRC fiscal year fee structure six to eight months in advance of the fee rulemaking. To address this issue, commenters suggested that the NRC publish an estimate of fees for the following year, coincident with issuance of the proposed fee rule each year. Some commenters recognized that while it would likely be impossible for the NRC to offer exact projections, the Commission should be able to develop reasonable estimates of the next year's fees. Some commenters suggested that the agency's projected total budget authority might be based on the five-year projection the Commission prepares as part of its annual budgeting process, and requested that this five-year projection be included in the Performance Budget each year (NUREG–1100 series). One commenter requested that the NRC's license fee estimates resulting from the anticipated FY 2007 budget be estimated and communicated to the commenter, with some confidence, by June 2006. Other commenters requested that NRC consider deferring a portion of the annual fee increase to the first quarter of 2007 to alleviate the unexpected burden imposed by large fee increases.

Some commenters suggested the Commission revisit the issue of arbitrary fee caps or combining fee classes to lessen the impact of fee changes. Some commenters expressed concern with hourly fees increases, because total hourly fees are more unpredictable than annual fees and create a substantial amount of uncertainty in a given licensee's annual costs.

Response. The NRC acknowledges the concerns raised by these commenters, and has addressed similar comments in previous fee rulemakings. However, the timing of the NRC's required fee collections is established by OBRA–90, as amended. In accordance with that statute, the NRC must collect the mandated level of fees by the end of the fiscal year to which they are attributed, in this case September 30, 2006. As such, the agency does not have the discretion to delay the collection of these fees by deferring some fee increases.

Additionally, the timing of the fee rule each year is contingent upon when the NRC receives its Congressionally approved budget. The Commission makes every effort to issue the proposed fee rule as soon as possible after receiving its appropriations. Because the NRC does not know in advance what its future budgets will be (*i.e.*, proposed budgets must be submitted to the OMB for its review before the President submits the budget to Congress for enactment), the NRC believes it is not practicable to project fees based on future estimated budgets. For example, the FY 2006 budget appropriation for the NRC reflected a significant increase over the NRC's initial FY 2006 budget request because of an increase in workload for new reactor and certain security activities. Had the NRC proposed or established preliminary fees based on the FY 2006 budget request, these estimated fees would have been quite different from the fees ultimately assessed to licensees. The fees reflected in this rulemaking reflect the final approved appropriation that was signed by the President on December 30, 2005 (Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006).

Changes in economic markets, as well as the security and policymaking environments, make predicting the NRC's future budgets even more difficult than this was previously. However, even if the NRC were able to reasonably predict a future year total budget, the annual fee amounts are also highly sensitive to other factors, including the allocation of these budgeted resources to license fee classes, the numbers of licensees in a fee class, and the proportion of total class costs recovered from part 170. (Part 170 revenue from a fee class is particularly difficult to predict in advance, and more so for fee classes with small numbers of licensees, whose annual fees are even more sensitive to part 170 revenue estimates.) Estimating these factors even further in advance than the NRC currently does would likely lead to inaccurate future fee projections, which would be misleading to licensees.

The NRC has previously considered requests to cap fee increases or phase them in over a longer period of time. In the FY 1999 proposed fee rule, the NRC solicited comments on the idea of a cap to fee increases (64 FR 15876; April 1, 1999). While some comments supported this proposal, others did not because they believed it would lead to some licensees subsidizing the costs of other licensees. The NRC did not adopt a fee increase cap in the FY 1999 final fee rule in light of fairness and equity concerns with this approach and a lack of overwhelming support from commenters (64 FR 31448; June 10, 1999). The NRC again considered these strategies in the FY 2005 fee rule and came to the same conclusion. The NRC continues to believe that the legal and fairness concerns with these fee cap strategies or other phase-in approaches outweigh the benefits of enhanced fee stability. Given the requirements of OBRA–90, as amended, to collect most of NRC's budget authority through fees, failure to fully recover costs from certain classes of licensees due to caps or thresholds would result in other classes of licensees bearing these costs. The NRC's fees are based on the current year budgeted costs of activities benefitting the associated license fee classes, and hence reflect the best assessment of who should be paying for these costs. However, the NRC will continue to strive to issue its fee regulations as early in the fiscal year as is practicable to give as much time as possible for licensees to plan for changes in fees.

In response to the comment that hourly rate charges are even more difficult to predict than annual fees, the NRC notes that, if requested, the NRC

program staff will provide a best estimate of hours required to complete a specific licensing action, with the caveat that the actual hours expended may differ from that estimate based on certain circumstances (*e.g.*, timeliness of submittals, quality of products submitted for review).

III. Final Action

The NRC is amending its licensing, inspection, and annual fees to recover approximately 90 percent of its FY 2006 budget authority less the appropriations received from the NWF and for WIR activities. The NRC's total budget authority for FY 2006 is $741.5 million, of which approximately $45.7 million has been appropriated from the NWF, and $2.5 million for WIR activities. Based on the 90 percent fee recovery requirement, the NRC must recover approximately $624 million in FY 2006 through part 170 licensing and inspection fees and part 171 annual fees. The amount required by law to be recovered through fees for FY 2006 is $83.4 million more than the amount estimated for recovery in FY 2005, an increase of over 15 percent.

The FY 2006 fee recovery amount is increased by $0.9 million to account for billing adjustments (*i.e.*, for FY 2006 invoices that the NRC estimates will not be paid during the fiscal year, less payments received in FY 2006 for FY 2005 invoices). There is no FY 2005 carryover to apply to FY 2006 fee collections. This leaves approximately $625 million to be recovered in FY 2006 through part 170 licensing and inspection fees and part 171 annual fees.

The NRC estimates that approximately $183.3 million will be recovered in FY 2006 from part 170 fees. This represents an increase of 19 percent as compared to the actual part 170 collections for FY 2005 of $154.1 million. The NRC derived the FY 2006 estimate of part 170 fee collections based on the previous four quarters of billing data for each license fee class, with adjustments to account for changes in the NRC's FY 2006 budget, as appropriate, and the increase in the hourly rates from FY 2005 to FY 2006. The remaining $441.7 million will be recovered through the part 171 annual fees in FY 2006, compared to $380.5 million for FY 2005, an increase of approximately 16 percent.

Table I summarizes the budget and fee recovery amounts for FY 2006 (individual values may not sum to totals due to rounding).

TABLE I.—BUDGET AND FEE RECOVERY AMOUNTS FOR FY 2006

[Dollars in millions]

Total Budget Authority	$741.5
Less NWF and WIR	−48.1
Balance	693.4
Fee Recovery Rate for FY 2006	× 90.0%
Total Amount To Be Recovered for FY 2006	624.0
Less Carryover from FY 2005	−0.0
Plus Part 171 Billing Adjustments:	
Unpaid FY 2006 Invoices (estimated)	3.2
Less Payments Received in FY 2006 for Prior Year Invoices (estimated)	−2.3
Subtotal	0.9
Amount to be Recovered Through Parts 170 and 171 Fees	625.0
Less Estimated Part 170 Fees	−183.3
Part 171 Fee Collections Required	441.7

The NRC has made four updates to the FY 2006 fee calculations since the proposed rule. First, the NRC updated the part 170 estimates based on the latest invoice data available. In total, the part 170 estimates decreased by approximately $5.4 million; approximately $3 million of this reduction is from the power reactor fee class. Second, the NRC has updated its allocation of the 'Homeland Security Unallocated' planned activity, as described in Section II.D.1. This resulted in more budgeted resources allocated to the power reactor fee class, and less to fuel facilities and some other licensees in the Materials Program. Third, the NRC has adjusted downward the amount of generic transportation resources to be recovered from annual fees. This adjustment takes into account the annual fee collections received for transportation activities (fee categories 10.B.1 and 10.B.2 under § 171.16) until the effective date of the FY 2006 final fee rule, which decreased the required fee collections for most fee classes (see Section III.B.3.h for details). (Note that this is only a one-time adjustment because the 10.B.1 and 10.B.2 annual fees have been eliminated as of the effective date of this rule. Therefore, licensees should expect the value of these allocated transportation resources to increase in future years.) Fourth, the number of NRC materials users licensees has been updated to reflect the transfer of approximately 150 licensees to the State of Minnesota. This adjustment was made because NRC entered into an Agreement with the State as authorized by Section 274 of the Atomic Energy Act of 1954, as amended, effective March 31, 2006. This resulted in a slight increase in fees for some materials users licensees because fewer NRC licensees are paying for budgeted licensing and inspection costs. Each of these changes and their associated impacts on each fee class is discussed in more detail in Section III.B.3.

The net result of all these updates on the FY 2006 fees is small. Fees for most licensees remained the same between the FY 2006 proposed and final fee rules. The most significant change was a five percent increase in the test and research reactor annual fee, which resulted from a decrease in estimated part 170 fee collections for this fee class. Other fees increased or decreased by a small amount as a result of the changes listed in the preceding paragraph.

The FY 2006 final fee rule is a ''major rule'' as defined by the Congressional Review Act of 1996. Therefore, the

NRC's fee schedules for FY 2006 will become effective 60 days after publication of the final rule in the **Federal Register**. The NRC will send an invoice for the amount of the annual fee to reactors, major fuel cycle facilities, and other licensees with annual fees of $100,000 or more, upon publication of the FY 2006 final rule. For these licensees, payment is due on the effective date of the FY 2006 rule. Because these licensees are billed quarterly, the payment due is the amount of the total FY 2006 annual fee less payments made in the first three quarters of the fiscal year. Those materials licensees whose license anniversary date during FY 2006 falls before the effective date of the final FY 2006 rule will be billed for the annual fee during the anniversary month of the license at the FY 2005 annual fee rate. Those materials licensees whose license anniversary date falls on or after the effective date of the final FY 2006 rule will be billed for the annual fee at the FY 2006 annual fee rate during the anniversary month of the license, and payment will be due on the date of the invoice.

The NRC has discontinued mailing the final fee rule to all licensees as a cost saving measure, in accordance with its FY 1998 announcement. Accordingly, the NRC does not plan to routinely mail the FY 2006 final fee rule or future final fee rules to licensees. However, the NRC will send the final rule to any licensee or other person upon specific request. To request a copy, contact the License Fee Team, Division of Financial Management, Office of the Chief Financial Officer, at 301–415–7554, or e-mail *fees@nrc.gov.* In addition to publication in the Federal Register, the final rule will be available on the Internet at *http://ruleforum.llnl.gov* for at least 90 days after the effective date of the final rule, and will be permanently available at *http://www.access.gpo.gov.*

The NRC is amending 10 CFR parts 170 and 171 as discussed in Sections A and B of this document.

A. Amendments to 10 CFR Part 170: Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended

The NRC is establishing hourly rates to recover the full cost of activities under part 170, and to use these rates to calculate ''flat'' application fees. Additionally, this rule establishes that Federal agencies are subject to part 170 fees (with the exception of certain Federally-owned test and research reactors); clarifies that the tracking and monitoring of shipments necessary for certain licensing actions is subject to full cost fees under part 170; establishes additional import/export fee categories (subclasses); and makes minor administrative changes for purposes of clarification, consistency, and to eliminate redundancy.

The NRC is making the following changes:

1. Hourly Rates

The NRC is establishing in § 170.20 two professional hourly rates for NRC staff time. These rates are based on the number of FY 2006 direct program FTEs and the NRC's FY 2006 fee recoverable budget, excluding direct program support costs. These rates are used in assessing full cost fees for specific services provided, as well as flat fees for certain application reviews. The rate for the Reactor Program is $217 per hour. This rate is applicable to all activities for which fees are assessed under § 170.21 of the fee regulations (with the exception of reactor decommissioning and import/export licensing activities). The rate for the Materials Program is $214 per hour. This rate is applicable to all activities for which fees are assessed under § 170.31 of the fee regulations, as well as the reactor decommissioning and import/export activities under § 170.21. In the FY 2005 final fee rule, the Reactor and Materials Program rates were $205 and $197, respectively.

The increases to the Reactor and Materials Program rates from FY 2006 to FY 2005 are due to the recent Government-wide pay raise and to the more accurate allocation of agency overhead to these Programs and fee-exempt activities. The hourly rate for the Materials Program decreased slightly (from $215 to $214) between the FY 2006 proposed and final rules because of some minor reductions in the allocation of resources to this program because of the revised allocation of resources under the 'Homeland Security' planned activity (discussed in Section II.D.1).

The hourly rate is derived by dividing the sum of budgeted resources for (1) Direct labor; (2) allocated program overhead; and (3) allocated agency overhead, by budgeted direct hours. This calculation is performed for both the Reactor and Materials Programs, and excludes the budgeted resources and associated overhead for fee exempt activities. The specific method used to determine the two professional hourly rates is as follows:

a. Direct program budgeted FTE, as well as all associated program overhead (FTE and contracts), are allocated at the planned activity level to the fee classes and surcharge (*i.e.*, fee exempt) categories based on who benefits from these activities. Direct contract support, which is the use of contract or other services in support of the line organization's mission-direct program, is excluded from the calculation of the hourly rates because the costs for direct contract support are recovered directly through either part 170 or 171 fees.

b. All management and support budgeted resources (FTE and contracts), including resources associated with the Office of the Inspector General, are allocated to each fee class and surcharge category based on the percent of the total budgeted resources allocated to each fee class and surcharge category in step a.

c. The hourly rate for the Reactor Program is calculated by dividing the total budgeted resources (calculated in steps a. and b.) allocated to the power reactor and test and research reactor fee classes by the direct hours allocated to those classes. Similarly, the hourly rate for the Materials Program is calculated by dividing the total budgeted resources allocated to the spent fuel/reactor decommissioning, fuel facility, transportation, materials users, uranium recovery, rare earth, and import/export fee classes by the direct hours allocated to those fee classes. Although an hourly rate for surcharge activities is not needed, the appropriate allocation of budgeted resources (including all associated overhead) and hours to the surcharge categories is calculated to ensure that these budgeted resources and hours are excluded from the Reactor and Materials Program hourly rates.

The direct hours used in the denominator of this hourly rate calculation continue to be calculated based on an estimate of 1,446 direct hours worked per direct FTE per year, as established in the FY 2005 fee rule (70 FR 30526; May 26, 2005). As explained in the FY 2005 fee rule, this estimate is based on data from the NRC's time and labor system. The NRC continues to believe this estimate appropriately reflects the direct time expended per direct FTE.

Table II shows the results of this hourly rate calculation methodology. Due to rounding, adding the individual numbers in the table may result in a total that is slightly different than the one shown.

TABLE II.—FY 2006 BUDGET AUTHORITY TO BE INCLUDED IN HOURLY RATES

	Reactor program	Materials program
Direct Program Salaries & Benefits	$182.4M	$41.3M
Program Overhead Salaries & Benefits, and Contract Support	81.9M	17.8M
Allocated Agency Management and Support	151.8M	34.0M
Subtotal	416.1M	93.1M
Less Offsetting Receipts	−0.1M	−0.0M
Total Budget Included in Hourly Rate	$416.0M	$93.1M
Program Direct FTEs	1,322.8	300.3
Professional Hourly Rate (Total Budget Included in Hourly Rate divided by Program Direct FTE times 1,446 hours)	$217	$214

As shown in Table II, dividing the $416 million budgeted amount (rounded) included in the hourly rate for the Reactor Program by the Reactor Program direct hours (1,322.8 FTE times 1,446 hours) results in an hourly rate of $217 for the Reactor Program for FY 2006. Similarly, dividing the $93.1 million budgeted amount (rounded) included in the hourly rate for the Materials Program by the program direct hours (300.3 FTE times 1,446 hours) results in an hourly rate of $214 for the Materials Program in FY 2006. These hourly rates are rounded to the nearest whole dollar.

2. Fee Adjustments

The NRC is adjusting the current part 170 fees in §§ 170.21 and 170.31 to reflect the changes in the hourly rates. The full cost fees assessed under §§ 170.21 and 170.31 are based on the professional hourly rates and any direct program support (contractual services) costs expended by the NRC. Any professional hours expended on or after the effective date of the final rule will be assessed at the FY 2006 hourly rates.

The fees in §§ 170.21 and 170.31 that are based on the average time to review an application (flat fees) have been adjusted to reflect the change in the Materials Program professional hourly rate from FY 2005. The flat fees are calculated by multiplying the average professional staff hours needed to process the licensing actions by the Materials Program professional hourly rate for FY 2006. The agency estimates the average professional staff hours needed to process licensing actions every other year as part of its biennial review of fees performed in compliance with the Chief Financial Officers Act of 1990 (Pub. L. 101–578). (This review was last performed as part of the FY 2005 fee rulemaking.) The amounts of the materials licensing flat fees are rounded so that the fees would be convenient to the user and the effects of rounding would be ''*de minimis*.'' Fees under $1,000 are rounded to the nearest $10, fees that are greater than $1,000 but less than $100,000 are rounded to the nearest $100, and fees that are greater than $100,000 are rounded to the nearest $1,000.

The licensing flat fees are applicable for fee categories K.1 through K.5 of § 170.21, and fee categories 1.C, 1.D, 2.B, 2.C, 3.A through 3.P, 4.B through 9.D, 10.B, 15.A through 15.R, 16, and 17 of § 170.31. The higher hourly rate of $214 for the Materials Program is the reason for the increases in the licensing fees. Because the hourly rate decreased by one dollar between the FY 2006 proposed and final fee rules, some of the flat fees decreased by a small amount since the FY 2006 proposed fee rule. Applications filed on or after the effective date of the final rule will be subject to the revised fees in this rule.

3. Charging Part 170 Fees to Federal Agencies/Fees for Research Reactors

The NRC is amending §§ 170.11 and 170.31 to provide that part 170 fees will be assessed to Federal agencies where applicable. Under the Energy Policy Act of 2005 (Section 623), the NRC was granted authority to assess fees for specific services provided to any Federal government agency which applies to the NRC for, or is issued by the NRC, a license or certificate. The NRC currently recovers the costs of licensee-specific activities for non-Federal licensees, applicants, and certificate holders under part 170, but lacked the authority to assess these fees to Federal agencies (other than the Tennessee Valley Authority) until the effective date of the Energy Policy Act of 2005.

Because activities such as processing license applications provide a specific benefit to the recipient, the Commission believes it is fair and appropriate to implement this new authority and thereby recover the costs of providing specific services to Federal agencies through part 170 fees. The NRC has provided written notification to Federal agencies that have an NRC license or certificate that the NRC plans to implement this new authority in the FY 2006 final fee rule, so that they may include this cost in their budgets.

The Commission notes that this provision of the Energy Policy Act of 2005 cannot legally be applied to services the NRC provides to Federal agencies that are not NRC licensees, certificate holders, or applicants. Therefore, the NRC will not charge part 170 fees to Federal agencies for activities that are not subject to NRC licensing. Examples of NRC activities not related to a license or certificate, and therefore not subject to part 170 fees, include those to support the DOE in its decommissioning of the West Valley site in New York, and technical assistance provided to the Department of Transportation for certain foreign approved transport package designs for import/export (for which NRC does not have regulatory authority).

Under these changes to part 170, Federal agency licensees, certificate holders, and applicants will be assessed fees in the same manner as are non-Federal agency licensees, certificate holders, and applicants. This means that Federal agencies will be required to pay part 170 fees for NRC services provided, including reviews of applications and other licensing actions, inspections, and decommissioning activities. This change does not require the calculation of any new fee amounts or establishment of new fee categories for Federal agencies. The only exception is that the NRC is establishing a new flat application fee of $17,800 for fee category 17, ''Master materials licenses of broad scope issued to Government agencies,'' under § 170.31. There is currently no application fee listed for this fee category because the only licensees in this fee category are for the Federal government. The flat application fee established in this rule was calculated in the same manner as other flat application fees; it equals the product of the average hours estimated to process these types of applications and the Materials Program hourly rate.

Because of insufficient data on average processing times for these master materials licenses (there are only three such NRC licensees), the NRC based its estimate of average processing time for master materials licensees on other license applications of similar complexity.

Additionally, to implement this new authority, the NRC is revising fee category 18.A under § 170.31 to specify that full cost fees will be assessed for licensing and inspection activities associated with DOE's part 71 Certificates of Compliance.

The NRC is exempting from part 170 fees Federally-owned test and research reactors that meet the fee exemption criteria set forth in Section 2903 of the Energy Policy Act of 1992 (Pub. L. 102–486). [These criteria relate to factors such as thermal power level and whether the reactor contains a liquid fuel loading, and are listed under both §§ 170.11(a)(9) and 171.11(a)(2). Three Federally-owned research reactors currently meet this criteria (reactors at the Veteran's Administration Medical Center in Omaha, Nebraska, the U.S. Geological Survey in Denver, Colorado, and the Armed Forces Radiobiological Institute in Bethesda, Maryland)]. As implemented by § 171.11(a)(2), Federally-owned test and research reactors that meet the statutory criteria are already exempt from paying annual fees. At the time Congress enacted this fee exemption, however, Federally-owned reactors (other than the Tennessee Valley Authority) were not subject to part 170 fees. Therefore, the exemption criteria set forth in the Energy Policy Act of 1992 did not specifically address part 170 fees. Now that NRC has the authority to charge part 170 fees to Federally-owned reactors, the NRC believes that it is appropriate as a matter of policy to apply the same criteria to Federally-owned test and research reactors, and exempt those meeting the criteria from part 170 fees. State-owned reactors meeting this same criteria are currently exempt from part 170 fees under § 170.11(a)(9). The Commission explained the rationale for this decision in the FY 1994 fee rule (59 FR 36895; July 20, 1994) by stating that the NRC believed this was ''* * * consistent with the legislative intent of the Energy Policy Act of 1992 that government-owned research reactors be exempt from fees if they meet the technical design criteria of the exemption and are used primarily for educational training and academic research purposes.'' The Commission continues to believe this is consistent with the intent of the Energy Policy Act of 1992, and therefore is exempting these Federally-owned reactors from part 170 fees.

Note the NRC is clarifying that the fee exemption in § 170.11(a)(9) remains in effect even after the reactors meeting this criteria are no longer authorized to operate in the revision to that paragraph.

4. Charging Part 170 Fees for Tracking and Monitoring Shipments of Classified Matter

The NRC is clarifying that full cost part 170 fees will be assessed to track and monitor shipments of classified materials (*e.g.,* components of gas centrifuge uranium enrichment facilities). The NRC currently has under review applications to build and operate gas centrifuge uranium enrichment facilities. Because of the sensitive technology, many of the components associated with these facilities are classified as Restricted Data under the Atomic Energy Act of 1954 (Pub. L. 83–703), as amended. Furthermore, some of these components are voluminous and cannot be transported under the standard classified matter transportation requirements of § 95.39(b) and (c) (*e.g.,* double wrapping, marking, and tracking). In these cases, the NRC requires the licensee or applicant to submit a security plan under § 95.39(e) for transporting this non-standard classified matter. One aspect of classified matter transportation security plans is continuous telemetric position monitoring and tracking of shipments of classified matter, including a capability for notification of local law enforcement officials and the NRC in the case of an emergency.

Because of the inherent national security concerns associated with the transportation of Restricted Data components and the current threat environment, the NRC has not considered permitting licensees to establish their own telemetric position monitoring and tracking capability for shipments of classified matter, nor to contract with a commercial service to meet this requirement. Instead, the NRC intends to require that these shipments be tracked and monitored by a U.S. government owned or operated system (*e.g.,* systems operated by the U.S. Departments of Defense or Energy). As such, the NRC is establishing an interagency agreement and memorandum of understanding and reimbursable agreement with another government agency to provide the necessary tracking, monitoring, and communications center capabilities. Accordingly, the costs incurred by the NRC from this other government agency in monitoring these shipments will be passed on to the applicable licensee in full. While this is a new activity, the recovery of these costs through part 170 fees is consistent with the NRC's existing full cost recovery policy for licensing activities.

The NRC is making this clarification by modifying the definition of ''special projects'' in § 170.3 to include this type of activity. This definition currently includes examples of special projects. Including this activity as an example would ensure that licensees are informed that these activities are subject to part 170 fees.

5. Revisions To Import/Export Fee Categories

The NRC is modifying the import and export fee categories at § 170.31 to reflect revisions to 10 CFR part 110 that were published on July 1, 2005 (70 FR 37985), effective December 28, 2005. These part 110 revisions take into account provisions in the International Atomic Energy Agency (IAEA) *Code of Conduct on the Safety and Security of Radioactive Sources* concerning the import and export of radioactive sources, and the supplemental IAEA guidance on the *Import and Export of Radioactive Sources.*

The specific radioactive material and quantities newly covered by NRC regulations, per the July 1, 2005 revisions, are listed in Table 1 of Appendix P to part 110, and are essentially identical to the list of radioactive materials in Category 1 and Category 2 of the *Code of Conduct.* The amendments to part 110 require NRC authorization of certain exports and imports by specific license. As a result of these changes, it is necessary to add additional import/export fee categories under § 170.31 to accommodate these new types of licensees.

Therefore, the NRC is modifying fee category 15 at § 170.31 to include separate fee categories for Category 1 Exports (fee categories 15.F through 15.I), Category 2 Exports (fee categories 15.J through 15.L), Category 1 Imports (fee categories 15.M and 15.N), Category 2 Imports (fee category O), Category 1 Imports with Agent and Multiple Licensees (fee categories 15.P and 15.Q), and minor amendments to Category 1 and 2 Exports and Imports (fee category 15.R). As with other flat fees established under § 170.31, the fees associated with each fee category reflect the NRC's estimate of average hours required to process the license application, multiplied by the hourly rate. These changes also establish that for a combined import and export license application for material listed in Appendix P to part 110, only the higher

of the two applicable fee amounts must be paid. This is because the difference in level of effort associated with processing a combined import and export license versus processing just the export license (for the material listed in Appendix P to part 110, only) is negligible.

6. Administrative Amendments

The NRC is eliminating the reference to ''route approvals for shipment of radioactive materials'' in the definition of ''special projects'' under § 170.3. This activity is currently covered under § 170.31, fee category 10 C., which establishes full cost recovery for this and other related activities; therefore, the additional reference to this activity as a special project (for which the NRC assesses full cost fees) is redundant.

The NRC is also modifying § 170.11(a)(4) to clarify that the fee exemption does not apply if an institution meets at least one of the criteria listed in § 170.11(a)(4)(i)–(iv). Currently, these criteria are connected with an ''and,'' rather than an ''or,'' making it unclear whether the fee exemption in § 170.11(a)(4) applies to an institution that meets one of the criteria. This revised language is consistent with the language used for this same exemption as applied to part 171 fees under § 171.11(a)(1) and will enhance the clarity of this provision.

Additionally, the NRC is clarifying which hourly rate is applicable to which activities. Currently, § 170.20 states that the Reactor Program rate is applicable to § 170.21 activities, and the Materials Program rate is applicable to § 170.31 activities. The NRC is amending § 170.20 to clarify that (1) the Reactor Program hourly rate is applicable to all activities for which fees are assessed under § 170.21 of the fee regulations, with the exception of reactor decommissioning and import/export licensing activities, and (2) the Materials Program rate is applicable to all activities for which fees are assessed under § 170.31 of the fee regulations, as well as the reactor decommissioning and import/export activities under § 170.21. This change better aligns the applicable hourly rate with the data used to calculate that rate (*i.e.,* reactor decommissioning resources are included in the Materials Program hourly rate).

Finally, the NRC is creating a new fee category under § 170.31, which would effectively split the current fee category 1.A.2.b (''other'' fuel facilities) into two categories, one for gas centrifuge enrichment demonstration facilities and one for hot cell facilities. This change keeps the fee categories under parts 170 and 171 consistent, in light of the same change the NRC made to § 171.16. This change does not affect part 170 fee recovery requirements, as each category is subject to full cost part 170 fees where applicable. This change results in different annual fees for the existing fee category 1.A.2.b and the new fee category 1.A.2.c, as explained in more detail under Section III.B.3.a of this document.

In summary, the NRC is making the following changes to 10 CFR part 170—

1. Establishing revised Reactor and Materials Program hourly rates;

2. Revising the licensing fees to be assessed to reflect the Reactor and Materials Program hourly rates;

3. Amending §§ 170.11 and 170.31 to provide that part 170 fees will be assessed to Federal agencies where applicable (except for certain Federally-owned research reactors);

4. Revising § 170.3 to clarify that full cost part 170 fees will be assessed to track and monitor shipments of classified matter;

5. Modifying the import and export fee categories under § 170.31; and

6. Making minor administrative changes for purposes of clarification, consistency, and to eliminate redundancy.

B. Amendments to 10 CFR part 171: Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC

The NRC is making the following changes under part 171: Proceeding with a presumption in favor of rebaselining annual fees beginning with the final FY 2006 rule; recovering generic transportation costs as part of other existing annual fees; revising the annual fees for FY 2006 to reflect the FY 2006 budget, changes in the number of NRC licensees, and the division of an existing fuel facilities fee category into two categories; eliminating the existing fee payment method exception for Class I and Class II uranium recovery licensees; and making an administrative change to clarify the definition of ''overhead and general and administrative costs.'' The amendments are described below.

1. Rebaselining Annual Fees

The NRC uses one of two methods to determine the amounts of the annual fees established in its fee rule each year. One method is ''rebaselining,'' for which the NRC's budget is analyzed in detail and budgeted resources are allocated to fee classes and categories of licensees. The second method is the ''percent change'' method, for which fees are revised based on the percent change in the total budget, taking into account other adjustments, such as the number of licensees and the projected revenue to be received from part 170 fees.

The NRC is establishing rebaselined annual fees for FY 2006, and is proceeding with a presumption in favor of rebaselining when determining annual fees for FY 2007 and beyond. The Commission's previous policy regarding the method of calculating annual fees, made in the statement of consideration of the FY 1995 fee rule (60 FR 32218; June 20, 1995), and further explained in the statement of consideration of the FY 1999 fee rule (64 FR 31448; June 10, 1999), was that annual fees would be rebaselined at least every third year, and more frequently if there was a substantial change in the total NRC budget or in the magnitude of the budget allocated to a specific class of licensees. The NRC is establishing a presumption in favor of rebaselining beginning with the FY 2006 rulemaking because (1) rebaselining is usually appropriate since there is often a substantial change in the total NRC budget or in the magnitude of the budget allocated to a specific class of licensees, and (2) delaying rebaselining can result in larger fee changes in the years when fees are rebaselined. The use of the percent change method will remain an option should there be a year in which there are no significant changes to the total budget or individual programs for fee classes. The NRC expects that in most years, annual fees will be rebaselined.

Until FY 1996, annual fees were determined using the rebaselining method. In an effort to stabilize fees, the NRC decided to adjust annual fees using the percent change method beginning in FY 1996, unless there was a substantial change in the NRC budget or in the magnitude of a specific budget allocation to a class of licensees. Fees were determined using the percent change method in the FYs 1996–1998 fee rules.

The NRC rebaselined fees in the FY 1999 fee rule, and solicited comment on the use and frequency of the percent change method. Some commenters, such as the Nuclear Energy Institute, supported rebaselining every year, believing that this method best supports the accurate alignment of costs to fee classes and the in-depth review needed to maximize agency efficiency. Other commenters appreciated the fee stability provided by the percent change method.

In response to these comments, the Commission determined that annual fees should be rebaselined every three years, or more frequently if there is a substantial change in the total NRC budget or in the magnitude of the budget allocated to a specific class of licensees. Fees were calculated using the percent change method in FY 2000, and were rebaselined in FYs 2001–2005.

As mentioned previously, the NRC believes that it should proceed, in future rulemakings, with a presumption in favor of rebaselining because there is often a substantial change in the total NRC budget or in the magnitude of the budget allocated to a specific class of licensees. Changes occurring in FY 2006 and beyond that warrant a rebaselining of fees include those in the areas of new reactor licensing, homeland security (including the removal of certain homeland security costs from the fee base beginning in FY 2007, per the Energy Policy Act of 2005), and new regulatory authority for naturally occurring and accelerator produced radioactive material. Accordingly, the Commission has concluded that the percent change method should be used infrequently, and therefore, is proceeding with a presumption in favor of rebaselining each year beginning with this fee rule.

2. Recovering Generic Transportation Costs as Part of Other Existing Annual Fees

The NRC is establishing that generic transportation costs unrelated to DOE be recovered as part of existing annual fees for license fee classes, rather than through a separate annual fee for part 71 Quality Assurance (QA) program approval holders (as is the current practice). Under this change, the annual fee for fee categories 10.B.1 and 10.B.2 under § 171.16 will be eliminated. However, the NRC is not changing or eliminating the annual fee under § 171.16, fee category 18.A, for DOE transportation activities, which will continue to be calculated using the current methodology (described further under Section III.B.3.h of this document). This change will enhance the equity of NRC's fees, increase the consistency of 10 CFR parts 71 and 72 fee recovery, and decrease the administrative burden associated with a separate transportation annual fee.

All NRC licensees must perform some activities related to the transportation of radioactive material as a necessary part of their licensed activities. This transportation is authorized by their NRC license (under 10 CFR parts 30, 40, 50, 70, etc.). [10 CFR 71.17 establishes a general license that authorizes NRC licensees to make shipments using packages with an approved Certificate of Compliance (CoC), without further approval.] For example, all licensees receive licensed material at their site, and ship products and waste materials. Because the NRC does not issue separate licenses under part 71 for transportation activities, the NRC currently recovers the cost of all ''generic'' transportation activities (*i.e.*, those activities that are not licensee-specific, and therefore not recovered through part 170 fees) through annual fees for QA program approvals. QA program approvals are required for entities holding NRC approved CoCs for transportation packages and for licensees that ship large (Type B) quantities of radioactive material or fissile material. NRC licensees must also use an approved CoC to transport radioactive material.

The NRC currently charges annual fees for the two types of QA program approvals it issues: (1) Use (approximately 80 programs), and (2) use and fabrication (approximately 40 programs). However, the resources for generic transportation activities—which are recovered through these two annual fees—support many other transportation-related NRC approvals and services, including the issuance of CoCs, route approvals, and evaluations of transportation devices and security plans. (The NRC charges part 170 fees for these specific services, not annual fees, for various reasons.)

One reason this approach raises fairness concerns is that a company is required to have only one QA program approval regardless of the number of CoCs it holds. This means companies pay the same annual fee regardless of whether they own one or many CoCs. As industry consolidation has increased over the past decade and the NRC has issued fewer QA program approvals, this equity concern has increased.

The NRC believes generic transportation resources would be recovered more equitably if these costs were included in the existing annual fees for NRC licenses for 10 CFR parts 30, 40, 50, 70, etc. The resources associated with generic transportation activities would be distributed to the license fee classes based on the number of CoCs benefitting (used by) that fee class, as a proxy for the generic transportation resources expended for each fee class. (This is a method similar to that used to calculate DOE's annual fee for transportation activities under § 171.16 fee category 18.A.) In this way, the annual fee for a license would include the estimated share of transportation resources needed to support that license, similar to the recovery of other types of generic resources such as rulemakings and risk assessments. Note that the amount of generic transportation resources distributed to the fee classes does not include the cost of activities associated with fee-exempt entities (*e.g.*, nonprofit educational institutions). Additionally, the distribution of these resources to the fee classes is adjusted to account for the licensees in each fee class that are fee exempt. [For example, if two CoCs benefit the entire test and research reactor class, but only four of 31 test and research reactors are subject to annual fees, the number of CoCs used to determine the proportion of generic transportation resources allocated to test and research reactor annual fees equals ((4/31)*2), or 0.26 CoCs.]

Under this new approach, reactors pay approximately 38 percent of these costs in FY 2006, materials users approximately 32 percent, fuel facilities approximately 21 percent, spent fuel/reactor decommissioning licensees approximately nine percent, and test and research reactors approximately 0.3 percent.

This new approach will also increase the consistency of parts 71 and 72 fee recovery. Part 72 QA programs are approved as part of the CoC approval process, and an annual fee is not assessed for either this QA approval or the CoC. The generic costs associated with spent fuel storage are recovered as part of the annual fee assessed to operating power reactors, decommissioning power reactors, and independent spent fuel storage installation licensees who do not hold a part 50 license.

Finally, an additional benefit of this approach is that it will decrease administrative burden and costs for both NRC and licensees by eliminating a required systems interface for NRC fee billing purposes, as well as reduce the number of NRC bills and accounts receivable transactions.

3. Revised Annual Fees

The annual fees in §§ 171.15 and 171.16 are revised for FY 2006 to recover approximately 90 percent of the NRC's FY 2006 budget authority, less the estimated amount to be recovered through part 170 fees and the amounts appropriated from the NWF and for WIR activities. The total amount to be recovered through annual fees for FY 2006 is $441.7 million, compared to $380.5 million for FY 2005.

Rebaselining fees in FY 2006 results in increased annual fees compared to FY 2005 for all licensees except certain fuel facilities. The increases in annual fees range from four percent for certain

sealed source safety devices to approximately 118 percent for uranium recovery facilities. However, most of the annual fee increases are of similar magnitude to the percentage increase in total required fee recovery of approximately 15 percent. The annual fee for certain medical licensees (fee category 7C) and industrial users of nuclear material (fee category 3P), which are the two fee categories with the largest number of licensees (with a combined total of over 3,200 of the NRC's approximately 4,400 billable materials users licensees), increased by approximately 18 percent and 16 percent, respectively.

As mentioned previously, the most significant factor affecting the changes to the annual fee amounts is the increase in the NRC's fee recoverable budget in FY 2006. The NRC's fee recoverable budget, as mandated by law, is $83.4 million larger in FY 2006 as compared to FY 2005, an increase of over 15 percent. Much of this increase is for the additional workload demand in areas such as new plant licensing and security. Other factors include adjustments in the distribution of budgeted costs to the different classes of licenses (based on the specific activities NRC will perform in FY 2006) and the estimated part 170 collections for the various classes of licenses. The percentage of the NRC's budget not subject to fee recovery remained unchanged at ten percent from FY 2005 to FY 2006.

Note that the NRC's total estimated part 170 fee collections increased by nineteen percent in FY 2006 (compared to FY 2005 actual part 170 collections). This increase is mainly due to the increase in the FY 2005 hourly rates as compared to the FY 2004 hourly rates. As discussed in the FY 2005 rulemaking, the higher hourly rates established in FY 2005 increased part 170 fee collections beginning in FY 2006. (These rates took effect near the end of FY 2005, and the NRC began collecting receipts from these higher rates as of the beginning of FY 2006.) Because costs not recovered under part 170 are recovered through part 171 annual fees, an increase in total part 170 fee collections results in a reduction in total annual fees by the same amount. Because of the higher hourly rates and resulting higher part 170 fee collections in FY 2006, the FY 2006 annual fees are lower than they would have been had NRC not established higher hourly rates in FY 2005.

As mentioned previously, the NRC has made four updates to the FY 2006 fee calculations since the proposed rule, and these adjustments affected the annual fee estimates in this rule. First, the NRC updated the part 170 estimates based on the latest invoice data available. (The part 170 estimates decreased somewhat for most fee classes, and remained the same for two.) Second, the NRC has updated its allocation of the ''Homeland Security Unallocated''planned activity, as described in Section II.D.1. Third, the NRC has adjusted downward the amount of generic transportation resources to be recovered from annual fees to take into account the annual fee collections received for transportation activities (fee categories 10.B.1 and 10.B.2 under § 171.16) until the effective date of the FY 2006 final fee rule. (Note that this is only a one-time adjustment because the 10.B.1 and 10.B.2 annual fees have been eliminated as of the effective date of this rule; therefore, licensees should expect the value of these allocated transportation resources to increase in future years.) Fourth, the number of NRC materials users licensees has been updated to reflect the transfer of approximately 150 licensees to the State of Minnesota. The net impact of these updates is that annual fees for most licensees either decreased slightly or remained the same since the proposed rule, but some did increase by a small amount. Each of these changes and their associated impacts on each fee class is discussed in more detail in Section III.B.3.a–.

Table III shows the rebaselined annual fees for FY 2006 for a representative list of categories of licenses. The FY 2005 fee is also shown for comparative purposes.

TABLE III.—REBASELINED ANNUAL FEES FOR FY 2006

Class/category of licenses	FY 2005 annual fee	FY 2006 annual fee
Operating Power Reactors (including Spent Fuel Storage/Reactor Decommissioning annual fee)	$3,155,000	$3,704,000
Spent Fuel Storage/Reactor Decommissioning	159,000	173,000
Test and Research Reactors (Non-power Reactors)	59,500	80,100
High Enriched Uranium Fuel Facility	5,449,000	5,420,000
Low Enriched Uranium Fuel Facility	1,632,000	1,596,000
UF_6 Conversion Facility	699,000	1,046,000
Conventional Mills	30,200	65,900
Typical Materials Users:		
Radiographers	12,800	15,400
Well Loggers	4,100	4,800
Gauge Users (Category 3P)	2,500	2,900
Broad Scope Medical	27,300	33,000

The annual fees assessed to each class of licenses include a surcharge to recover those NRC budgeted costs that are not directly or solely attributable to the classes of licenses, but must be recovered from licensees to comply with the requirements of OBRA–90, as amended. Based on the FY 2006 EWDAA, which amended OBRA–90 (as amended) to require that the NRC recover 90 percent of its budget in FY 2006, the total surcharge costs for FY 2006 will be reduced by approximately $69.3 million. The total FY 2006 budgeted costs for these activities and the reduction in the total surcharge amount for fee recovery purposes are shown in Table IV (individual values may not sum to totals due to rounding).

TABLE IV.—SURCHARGE COSTS

[Dollars in millions]

Category of costs	FY 2006 budgeted costs
1. Activities not attributable to an existing NRC licensee or class of licensee:	
a. International activities	$13.8
b. Agreement State oversight	8.0
c. Activities for unlicensed sites (includes decommissioning costs associated with unlicensed sites, formerly referred to as site decommissioning management plan activities not recovered under part 170; also includes activities associated with unregistered general licensees)	5.4
2. Activities not assessed part 170 licensing and inspection fees or part 171 annual fees based on existing law or Commission policy:	
a. Fee exemption for nonprofit educational institutions	11.9
b. Licensing and inspection activities associated with other Federal agencies	1.4
c. Costs not recovered from small entities under 10 CFR 171.16(c)	5.7
3. Activities supporting NRC operating licensees and others:	
a. Regulatory support to Agreement States [1]	20.2
b. Generic decommissioning/reclamation (except those related to power reactors)	6.5
Total surcharge cost	72.8
Less 10 percent of NRC's FY 2006 total budget (less NWF and WIR)	−69.3
Total Net Surcharge Costs to be Recovered	3.5

As shown in Table IV, $3.5 million is the total net surcharge cost allocated to the various classes of licenses for FY 2006 (*i.e.*, that portion of the total surcharge not covered by the NRC's 10 percent fee relief). The NRC has continued to allocate these surcharge costs to each class of licenses based on the percent of the budget for that fee class compared to the NRC's total budget. The surcharge costs allocated to each class is included in the annual fee assessed to each licensee. The FY 2006 surcharge costs (and the percent of total surcharge costs) allocated to each class of licenses, are shown in Table V (individual amounts may not sum to totals due to rounding). Separately, the NRC has continued to allocate the low-level waste (LLW) surcharge costs based on the volume of LLW disposal of certain classes of licenses. For FY 2006, the LLW surcharge costs are $3.5 million.

TABLE V.—ALLOCATION OF SURCHARGE

	LLW surcharge		Non-LLW surcharge		Total surcharge $M
	Percent	$M	Percent	$M	
Operating Power Reactors	74	2.6	83.7	2.9	5.5
Spent Fuel Storage/Reactor Decomm	.....	.....	4.3	0.2	0.2
Test and Research Reactors	.....	.....	0.1	0	0
Fuel Facilities	8	0.3	6.5	0.2	0.5
Materials Users	18	0.6	4.1	0.1	0.8
Transportation	.....	.....	0.7	0	0
Rare Earth Facilities	.....	.....	0.1	0	0
Uranium Recovery	.....	.....	0.4	0	0
Total Surcharge	100	3.5	100.0	3.5	7.0

The budgeted costs allocated to each class of licenses and the calculations of the rebaselined fees are described in paragraphs a. through h. below. The work papers which support this rule show in detail the allocation of NRC's budgeted resources for each class of licenses and how the fees are calculated. The reports included in these work papers summarize the FY 2006 budgeted FTE and contract dollars allocated to each fee class and surcharge category at the planned activity and program level, and compare these allocations to those used to develop final FY 2005 fees. The work papers are available electronically at the NRC's Electronic Reading Room on the Internet at Web site address *http://www.nrc.gov/reading-rm/adams.html*. For a period of 90 days after the effective date of this final rule, the work papers may also be examined at the NRC Public Document Room located at One White Flint North, Room O–1F22, 11555 Rockville Pike, Rockville, MD 20852–2738.

Note that all budgeted resources and annual fee amounts presented in this document reflect an increase in the full cost of an FTE. This increase occurred due to the Government-wide pay raise and the more accurate allocation of overhead to the FTEs supporting fee classes versus surcharge categories, which increased the full cost of FTEs supporting fee classes. As a percent of

[1] This estimate includes the costs of homeland security activities associated with sources in Agreement States, even though regulatory authority remains with the NRC for these activites. However, fees are not assessed to sources in Agreement States for these activities, therefore these costs are included in this surcharge category. Additionally, this estimate includes some costs associated with establishing a regulatory infrastructure for naturally occurring and accelerator produced radioactive material because this infrastructure will further the future regulation of these sources by both NRC and Agreement States.

total fee-based budgeted resources, the resources associated with NRC's overhead actually declined from FY 2005 to FY 2006.

a. Fuel Facilities

The FY 2006 budgeted cost to be recovered in the annual fees assessment to the fuel facility class of licenses is approximately $24.8 million. This value is derived based on the full cost of budgeted resources associated with all activities that support this fee class, which is reduced by estimated part 170 collections and adjusted to reflect the net allocated surcharge, allocated generic transportation resources, and billing adjustments. The summary calculations used to derive this value are presented in Table VI for FY 2006, with FY 2005 values shown for comparison purposes (individual values may not sum to totals due to rounding):

TABLE VI.—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2005 final	FY 2006 final
Fuel Facility Fee Class:		
Total budgeted resources	$38.2	$39.6
Less estimated part 170 receipts	−14.3	−15.8
Net part 171 resources	24.0	23.8
Plus allocated generic transportation	+N/A	+0.4
Plus allocated surcharge	+0.4	+0.5
Billing adjustments (including carryover and budget rescission)	−0.2	+0.0
Total required annual fee recovery	24.1	24.8

The small increase in fuel facilities FY 2006 total budgeted resources compared to FY 2005 is due mostly to an increase in the full cost of an FTE (as explained previously). The total required annual fee recovery also increases as a result of the allocation of generic transportation resources.

The total required annual fee recovery amount is allocated to the individual fuel facility licensees based on the effort/fee determination matrix established in the FY 1999 final fee rule (64 FR 31448; June 10, 1999). In the matrix (which is included in the NRC work papers that are publicly available), licensees are grouped into categories according to their licensed activities (*i.e.*, nuclear material enrichment, processing operations, and material form) and according to the level, scope, depth of coverage, and rigor of generic regulatory programmatic effort applicable to each category from a safety and safeguards perspective. This methodology can be applied to determine fees for new licensees, current licensees, licensees in unique license situations, and certificate holders.

This methodology is adaptable to changes in the number of licensees or certificate holders, licensed or certified material and/or activities, and total programmatic resources to be recovered through annual fees. When a license or certificate is modified, it may result in a change of category for a particular fuel facility licensee as a result of the methodology used in the fuel facility effort/fee matrix. Consequently, this change may also have an effect on the fees assessed to other fuel facility licensees and certificate holders. For example, if a fuel facility licensee amends its license/certificate in such a way (*e.g.*, decommissioning or license termination) that results in it not being subject to part 171 costs applicable to the fee class, then the budgeted costs for the safety and/or safeguards components will be spread among the remaining fuel facility licensees/certificate holders.

The methodology is applied as follows. First, a fee category is assigned based on the nuclear material and activity authorized by license or certificate. Although a licensee/certificate holder may elect not to fully use a license/certificate, the license/certificate is still used as the source for determining authorized nuclear material possession and use/activity. Next, the category and license/certificate information are used to determine where the licensee/certificate holder fits into the matrix. The matrix depicts the categorization of licensees/certificate holders by authorized material types and use/activities.

Once the structure of the matrix is established, the NRC's fuel facility project managers and regulatory analysts determine the level of effort associated with regulating each of these facilities. This is done by assigning, for each fuel facility, separate effort factors for the safety and safeguards activities associated with each type of regulatory activity. The matrix includes ten types of regulatory activities, including enrichment and scrap/waste related activities (see the work papers for the complete list). Effort factors are assigned as follows: zero (no regulatory effort), one (low regulatory effort), five (moderate regulatory effort), and ten (high regulatory effort). These effort factors are then totaled for each fee category, so that each fee category has a total effort factor for safety activities and a total effort factor for safeguards activities.

The budgeted resources for safety activities are then allocated to each fee category based on its percent of the total regulatory effort for safety activities. For example, if the total effort factor for safety activities for all fuel facilities is 100, and the total effort factor for safety activities for a given fee category is ten, that fee category will be allocated ten percent of the total budgeted resources for safety activities. Similarly, the budgeted resources for safeguards activities are allocated to each fee category based on its percent of the total regulatory effort for safeguards activities. The surcharge that must be recovered from fuel facilities is allocated to each fee category based on its percent of the total regulatory effort for both safety and safeguards activities. The annual fee per licensee is then calculated by dividing the total allocated budgeted resources for the fee category by the number licensees in that fee category.

The effort factors for the various fuel facility fee categories are summarized in Table VII. The value of the effort factors shown, as well as the percent of the total effort factor for all fuel facilities, reflects the total for each fee category (not per facility). Note this table includes the addition of a new fee category, as discussed immediately following the table.

TABLE VII.—EFFORT FACTORS FOR FUEL FACILITIES

Facility type (fee category)	Number of facilities	Effort factors (percent of total)	
		Safety	Safeguards
High Enriched Uranium Fuel	2	101 (38.0)	96 (52.2)
Enrichment	2	70 (26.3)	40 (21.7)
Low Enriched Uranium Fuel	3	66 (24.8)	21 (11.4)
UF_6 Conversion	1	12 (4.5)	7 (3.8)
Limited Operations	1	8 (3.0)	3 (1.6)
Gas Centrifuge Enrichment Demonstration	1	3 (1.1)	15 (8.2)
Hot Cell	1	6 (2.3)	2 (1.1)

The NRC is dividing fee category 1.A.2.b under § 170.31 into two categories, and is using the existing fee methodology to establish separate annual fees for these two categories. Currently, fee category 1.A.2.b captures all fuel facility licensees that do not fall into other fee categories. There are currently two licensees in this fee category; one is a gas centrifuge enrichment demonstration facility, and one is a hot cell facility. The NRC provides significantly different levels of regulatory support for these facilities. For example, the gas centrifuge enrichment demonstration facility generates and requires the safe management of significantly greater amounts of sensitive information. For this reason, the NRC is dividing this fee category into two categories to separately establish annual fees for these two types of facilities based on the NRC's resources (*i.e.*, level of effort) specifically associated with regulating each type of facility. This change better aligns the NRC's budgeted resources with the fees assessed to these two facilities.

Applying the FY 2006 effort factors (as summarized in Table VII) to the safety, safeguards, and surcharge components of the $24.8 million total annual fee amount for the fuel facility class results in annual fees for each licensee within the categories of this class summarized in Table VIII. Note that the annual fees for the gas centrifuge enrichment demonstration and UF_6 conversion facilities are higher than the FY 2005 annual fees because the safeguards effort factors for these facilities have been raised. These revised factors better reflect the effort levels associated with safeguards activities for these facilities, including those associated with interim compensatory measures and the handling of sensitive information.

TABLE VIII.—ANNUAL FEES FOR FUEL FACILITIES

Facility type (fee category)	FY 2006 annual fee
High Enriched Uranium Fuel	$5,420,000
Uranium Enrichment	3,027,000
Low Enriched Uranium	1,596,000
UF_6 Conversion	1,046,000
Gas Centrifuge Enrichment Demonstration	991,000
Limited Operations Facility	605,000
Hot Cell	440,000

Note the fuel facility annual fees decreased slightly between the FY 2006 proposed and final fee rules due to (1) the revised allocation of the ''Homeland Security Unallocated'' planned activity, which resulted in fewer budgeted resources allocated to this fee class (discussed further in Section II.D.1), and (2) a reduction of allocated resources for generic transportation activities (discussed further in Section III.B.3.h).

As mentioned previously, the NRC is currently reviewing applications to build and operate gas centrifuge uranium enrichment facilities. If these facilities are licensed to operate, they will be subject to an annual fee in accordance with the methodology described previously. The NRC's current plans are to establish a separate fee category for these facilities.

b. Uranium Recovery Facilities

The total FY 2006 budgeted cost to be recovered through annual fees assessed to the uranium recovery class is approximately $1.1 million. The derivation of this value is shown below, with FY 2005 values shown for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE IX.—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2005 final	FY 2006 final
Uranium Recovery Fee Class:		
Total budgeted resources	$2.01	$2.34
Less estimated part 170 receipts	−1.30	−1.29
Net part 171 resources	0.71	1.05
Plus allocated generic transportation	+N/A	+N/A
Plus allocated surcharge	+0.01	+0.01
Billing adjustments (including carryover and budget rescission)	−0.01	+0.00
Total required annual fee recovery	0.70	1.06

The increase in budgeted resources reflects the reallocation of existing NRC FTE to uranium recovery licensing and inspection activities from other activities (*e.g.*, Agreement State oversight). The part 170 estimate (as shown above) reflects an increase, over historical actual part 170 collections, to fully account for these additional activities. The FY 2006 part 170 estimate is not much different than the FY 2005 part 170 estimate because the

FY 2005 estimate was higher than the actual part 170 collections.

Of the required annual fee collections, approximately $732,000 would be assessed to DOE. The remaining $329,000 would be recovered through annual fees assessed to conventional mills, in-situ leach solution mining facilities, and 11e.(2) mill tailings disposal facilities (incidental to existing tailings sites).

Consistent with the change in methodology adopted in the FY 2002 final fee rule (67 FR 42612; June 24, 2002), the total annual fee amount, less the amounts specifically budgeted for Title I activities, is allocated equally between Title I and Title II licensees. This results in an annual fee being assessed to DOE to recover the costs specifically budgeted for NRC's Title I activities plus 50 percent of the remaining annual fee amount, including the surcharge and generic/other costs, for the uranium recovery class. The remaining 50 percent of the surcharge and generic/other costs are assessed to the NRC Title II program licensees that are subject to annual fees. The costs to be recovered through annual fees assessed to the uranium recovery class are shown in Table X.

TABLE X.—COSTS RECOVERED THROUGH ANNUAL FEES; URANIUM RECOVERY FEE CLASS

DOE Annual Fee Amount [Uranium Mill Tailings Radiation Control Act (UMTRCA) Title I and Title II general licenses]:	
UMTRCA Title I budgeted costs	$402,913
50 percent of generic/other uranium recovery budgeted costs	322,722
50 percent of uranium recovery surcharge	6,536
Total Annual Fee Amount for DOE (rounded)	732,000
Annual Fee Amount for UMTRCA Title II Specific Licenses:	
50 percent of generic/other uranium recovery budgeted costs	322,722
50 percent of uranium recovery surcharge	6,536
Total Annual Fee Amount for Title II Specific Licenses	329,258

The matrix used to allocate the costs of various categories of Title II specific licensees has been reviewed and continues to equally weight, as in FY 2005, the effort levels for each category of uranium recovery facilities, in accordance with the NRC's FY 2006 budgeted activities. As such, each non-DOE uranium recovery licensee will be assessed an equal share of the total annual fee amount for UMTRCA Title II specific licenses. Additionally, the NRC is maintaining the existing approach for establishing part 171 annual fees for Title II uranium recovery licensees [established in the FY 1995 fee rule (60 FR 32218; June 20, 1995)]. This approach is as follows:

(1) The methodology identifies three categories of licenses: Conventional uranium mills (Class I facilities), uranium solution mining facilities (Class II facilities), and mill tailings disposal facilities (11e.(2) disposal facilities). Each category benefits from the generic uranium recovery program efforts (*e.g.*, rulemakings, staff guidance documents);

(2) The matrix relates the category and the level of benefit by program element and subelement;

(3) The two major program elements of the generic uranium recovery program are activities related to facility operations and facility closure;

(4) Each of the major program elements was further divided into three subelements; and

(5) The three major subelements of generic activities associated with uranium facility operations are regulatory efforts related to the operation of mills, handling and disposal of waste, and prevention of groundwater contamination. The three major subelements of generic activities associated with uranium facility closure are regulatory efforts related to decommissioning of facilities and land clean-up, reclamation and closure of tailings impoundments, and groundwater clean-up. Weighted values were assigned to each program element and subelement considering health and safety implications and the associated effort to regulate these activities. The applicability of the generic program in each subelement to each uranium recovery category was qualitatively estimated as either significant, some, minor, or none.

The relative weighted factors per facility type for the various categories of specifically licensed Title II uranium recovery licensees are as follows:

TABLE XI.—WEIGHTED FACTORS FOR URANIUM RECOVERY LICENSES

Facility type	Number of facilities	Category weight	Level of benefit	
			Total weight	
			Value	Percent
Class I (conventional mills)	1	800	800	20
Class II (solution mining)	3	800	2,400	60
11e.(2) disposal	0	0	0	0
11e.(2) disposal incidental to existing tailings sites	1	800	800	20

Applying these factors to the approximately $329,000 in budgeted costs to be recovered from Title II specific licensees results in the following revised annual fees for FY 2006:

TABLE XII.—ANNUAL FEES FOR TITLE II SPECIFIC LICENSES

Facility type	FY 2006 annual fee
Class I (conventional mills) ..	$65,900

TABLE XII.—ANNUAL FEES FOR TITLE II SPECIFIC LICENSES—Continued

Facility type	FY 2006 annual fee
Class II (solution mining)	65,900

TABLE XII.—ANNUAL FEES FOR TITLE II SPECIFIC LICENSES—Continued

Facility type	FY 2006 annual fee
11e.(2) disposal	N/A
11e.(2) disposal incidental to existing tailings sites	65,900

Note because there are no longer any 11e.(2) disposal facilities under the NRC's regulatory jurisdiction, the NRC has not allocated any budgeted resources for these facilities, and therefore has not established an annual fee for this fee category. If NRC issues a license for this fee category in the future, then the Commission will establish the appropriate annual fee.

The uranium recovery annual fees decreased slightly between the FY 2006 proposed and final fee rules due to the revised allocation of the ''Homeland Security Unallocated'' planned activity, which resulted in fewer budgeted resources allocated to this fee class (discussed further in Section II.D.1).

As discussed in Section III.B.4, ''Eliminating the Existing Fee Payment Exception for Uranium Recovery Licensees,'' the NRC is establishing that all Title II facilities be subject to the billing provisions of § 171.19(c), which state that annual fees that are less than $100,000 are billed on the anniversary date of the license.

c. Operating Power Reactors

The approximately $367.2 million in budgeted costs to be recovered through FY 2006 annual fees assessed to the power reactor class was calculated as shown in Table XIII. (FY 2005 values shown for comparison purposes; individual amounts may not sum to totals due to rounding.)

TABLE XIII.—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS

[Dollars in millions]

Summary fee calculations	FY 2005 final	FY 2006 final
Operating Power Reactors Fee Class:		
Total budgeted resources	$440.7	$515.9
Less estimated part 170 receipts	−130.5	−155.2
Net part 171 resources	310.2	360.7
Plus allocated transportation	+N/A	+0.8
Plus allocated surcharge	+4.0	+5.5
Billing adjustments (including carryover, any budget rescission)	−2.6	+0.2
Total required annual fee recovery	311.6	367.2

The budgeted costs to be recovered through annual fees to power reactors, including those for homeland security activities related to power reactors, is divided equally among the 104 power reactors licensed to operate. This results in a FY 2006 annual fee of $3,531,000 per reactor. Additionally, each power reactor licensed to operate will be assessed the FY 2006 spent fuel storage/reactor decommissioning annual fee of $173,000. This results in a total FY 2006 annual fee of $3,704,000 for each power reactor licensed to operate.

The annual fee for power reactors increases in FY 2006 compared to FY 2005 due to an increase in budgeted resources for a number of activities, including regulatory infrastructure for new reactor licensing activities, preparations for future combined license applications, homeland security-related mitigating strategies, licensing tasks related to the aging of reactor systems and components, and evaluating and resolving operational issues. As shown previously, the NRC estimates an increase in part 170 collections of about 19 percent from operating power reactors; these collections offset the required annual fee recovery amount by a total of over $155 million.

The power reactor annual fee increased by about one percent between the FY 2006 proposed and final rules because of (1) a decrease in the estimated part 170 collections from this fee class, based on the latest four quarters of invoices available, and (2) the revised allocation of the ''Homeland Security Unallocated'' planned activity, which resulted in more budgeted resources allocated to this fee class (discussed further in Section II.D.1).

d. Spent Fuel Storage/Reactor Decommissioning

For FY 2006, budgeted costs of approximately $21.2 million for spent fuel storage/reactor decommissioning are to be recovered through annual fees assessed to part 50 power reactors, and to part 72 licensees who do not hold a part 50 license. Those reactor licensees that have ceased operations and have no fuel onsite are not subject to these annual fees. Table XIV below shows the calculation of this annual fee amount. (FY 2005 values shown for comparison purposes; individual values may not sum to totals due to rounding.)

TABLE XIV.—ANNUAL FEE SUMMARY CALCULATIONS FOR THE SPENT FUEL STORAGE/REACTOR DECOMMISSIONING FEE CLASS

[Dollars in millions]

Summary fee calculations	FY 2005 final	FY 2006 final
Spent Fuel Storage/Reactor—Decommissioning Fee Class:		
Total budgeted resources	$25.1	$26.6
Less estimated part 170 receipts	−5.7	−5.8
Net part 171 resources	19.4	20.8
Plus allocated generic transportation	+N/A	+0.2
Plus allocated surcharge	+0.1	+0.2
Billing adjustments (including carryover and budget rescission)	−0.1	+0.0

TABLE XIV.—ANNUAL FEE SUMMARY CALCULATIONS FOR THE SPENT FUEL STORAGE/REACTOR DECOMMISSIONING FEE CLASS—Continued

[Dollars in millions]

Summary fee calculations	FY 2005 final	FY 2006 final
Total required annual fee recovery	19.4	21.2

The required annual fee recovery amount is divided equally among 122 licensees (and to one new licensee with a 60 prorated annual fee, in accordance with § 171.17(a)), resulting in a FY 2006 annual fee of $173,000 per licensee. The value of total budgeted resources for this fee class increased in FY 2006 compared to FY 2005 due to an increase in the full cost of a budgeted FTE, the allocation of generic transportation resources, and relatively small increases in contracts allocated for activities such as licensing/certification and training.

The annual fee for this fee class increased slightly between the FY 2006 proposed and final fee rules because of a reduced estimate of part 170 fee collections, based on the latest four quarters of invoices.

e. Test and Research Reactors (Nonpower Reactors)

Approximately $320,000 in budgeted costs is to be recovered through annual fees assessed to the test and research reactor class of licenses for FY 2006. Table XV summarizes the annual fee calculation for test and research reactors for FY 2006 (as compared to FY 2005). Individual values may not sum to totals due to rounding.

TABLE XV.—ANNUAL FEE SUMMARY CALCULATIONS FOR TEST AND RESEARCH REACTORS

[Dollars in millions]

Summary fee calculations/test and research reactors fee class	FY 2005 final	FY 2006 final
Total budgeted resources	$0.52	$0.88
Less estimated part 170 receipts	−0.28	−0.57
Net part 171 resources	0.24	0.31
Plus allocated generic transportation	+N/A	+0.01
Plus allocated surcharge	+0.00	+0.01
Billing adjustments (including carryover and budget rescission)	−0.00	+0.00
Total required annual fee recovery	0.24	0.32

This required annual fee recovery amount is divided equally among the four test and research reactors subject to annual fees, and results in a FY 2006 annual fee of $80,100 for each licensee. This increase in annual fees from FY 2005 to FY 2006 is due to a relatively large increase in budgeted resources for licensing activities for test and research reactors, which is part of an initiative to reduce a backlog of reactor licensing actions. Although the NRC estimates that much of this increase will result in an increase in estimated part 170 collections (which is factored into the part 170 estimates above), some of these resources are projected to be associated with non-licensee specific activities, and therefore will need to be recovered under part 171.

Note the annual fee for test and research reactors increased by about five percent between the FY 2006 proposed and final fee rules. This is due to a lower estimate of part 170 fee collections, based on the latest four quarters of invoices.

f. Rare Earth Facilities

The FY 2006 budgeted costs of $95,900 for rare earth facilities to be recovered through annual fees will be assessed to the one licensee who has a specific license for receipt and processing of source material, resulting in a FY 2006 annual fee of $95,900. Table XVI summarizes the annual fee calculation for the rare earth fee class for FY 2006 (as compared to FY 2005). (Individual values may not sum to totals due to rounding.)

TABLE XVI.—ANNUAL FEE SUMMARY CALCULATIONS FOR RARE EARTH FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2005 final	FY 2006 final
Rare Earth Fee Class:		
Total budgeted resources	$0.875	$0.831
Less estimated part 170 receipts	−0.800	−0.740
Net part 171 resources	0.075	0.091
Plus allocated generic transportation	+N/A	+N/A
Plus allocated surcharge	+0.000	+0.005
Billing adjustments (including carryover and budget rescission)	−0.000	+0.000
Total required annual fee recovery	0.074	0.096

The total allocated resources for this fee class decreased slightly in FY 2006 compared to FY 2005, but the annual fee increases due to lower estimated part 170 collections. Note the rare earth annual fee decreased slightly between the FY 2006 proposed and final fee rules because of the revised allocation of the 'Homeland Security Unallocated' planned activity, which resulted in fewer budgeted resources allocated to this fee class (discussed further in Section II.D.1).

g. Materials Users

Table XVII shows the calculation of the FY 2006 annual fee amount for materials users licensees. (FY 2005 values shown for comparison purposes; individual values may not sum to totals due to rounding.)

TABLE XVII.—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS

[Dollars in millions]

Summary fee calculations/materials users	FY 2005 final	FY 2006 final
Fee Class:		
Total budgeted resources	$27.5	$30.3
Less estimated part 170 receipts	−1.9	−2.0
Net part 171 resources	25.6	28.2
Plus allocated generic transportation	+N/A	+0.6
Plus allocated surcharge	+0.6	+0.8
Billing adjustments (including carryover and budget rescission)	−0.1	+0.0
Total required annual fee recovery	26.0	29.6

To equitably and fairly allocate the $29.6 million in FY 2006 budgeted costs to be recovered in annual fees assessed to the approximately 4,400 billable diverse materials users licensees, the NRC has continued to base the annual fees for each fee category within this class on the part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the license, this approach continues to provide a proxy for allocating the generic and other regulatory costs to the diverse categories of licenses based on how much it costs the NRC to regulate each category. The fee calculation also continues to consider the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

The annual fee for these categories of materials users licenses is developed as follows:

Annual fee = Constant × [Application Fee + (Average Inspection Cost divided by Inspection Priority)]+ Inspection Multiplier × (Average Inspection Cost divided by Inspection Priority) + Unique Category Costs.

The constant is the multiple necessary to recover approximately $21.5 million in general costs (including allocated generic transportation costs) and is 1.21 for FY 2006. The inspection multiplier is the multiple necessary to recover approximately $7.2 million in inspection costs, and is 1.57 for FY 2006. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. For FY 2006, approximately $111,000 in budgeted costs for the implementation of revised 10 CFR part 35, Medical Use of Byproduct Material (unique costs), has been allocated to holders of NRC human use licenses.

The annual fee assessed to each licensee also includes a share of the $143,000 in surcharge costs allocated to the materials users class of licenses and, for certain categories of these licenses, a share of the approximately $634,000 in LLW surcharge costs allocated to the class. The annual fee for each fee category is shown in § 171.16(d).

The annual fees for materials licensees increased in FY 2006 mainly because of an increase in budgeted resources for activities relating to information technology/tracking systems for these types of licensees (including tracking that relates to homeland security purposes), increases for inspection activities, and the allocation of generic transportation resources. Increases in annual fees for materials users licensees (other than master materials licenses, for which the annual fee increased 49 percent) range from approximately four percent to approximately 23 percent. These changes reflect the overall increase of over 14 percent in budgeted resources to be recovered through annual fees to this fee class; the actual percentage increase for different fee categories varies mainly because of the difference in how inspection versus other types of resources are distributed to the fee categories. For example, the inspection resources to be recovered through annual fees increased more than non-inspection resources from FY 2005 to FY 2006. Those fee categories that receive a relatively larger share of these inspection budgeted costs (due to their higher average hours per inspection), have annual fees that increase somewhat more than other fee categories, as compared to FY 2005. This is also a key reason for the master materials license fee increase.

Between the FY 2006 proposed and final fee rules, annual fees increased slightly for some materials users licensees, decreased slightly for others, and remained the same for the majority. The reasons for changes in the materials users fees are (1) A slight reduction in the estimated part 170 collections for this fee class, which increased the annual fee recovery amount; (2) a small decrease in allocated resources from the 'Homeland Security Unallocated' planned activity (discussed in Section II.D.1); (3) a decrease in allocated generic transportation resources (discussed in more detail in Section III.B.3.h); and (4) the transfer of approximately 150 licensees to the State of Minnesota (see Section III.B.3.5).

The impact of the transfer of licensees to the State of Minnesota is that the budgeted resources for most licensing and inspection activities for the materials users fee class are allocated to fewer licensees. The FY 2006 final fee rule calculations reflect the allocation of a larger percentage of materials users regulatory infrastructure resources to the surcharge category of Agreement State Regulatory Support because these infrastructure resources are allocated to the surcharge based on the percentage of total materials users licensees in Agreement States (and this percentage increased from 79 to 80 percent between the FY 2006 proposed and final fee rules). However, budgeted resources for

activities such as licensing and inspections for NRC materials users licensees are not allocated to the surcharge because they do not benefit Agreement States or their licensees. Therefore, the transfer of licensees to the State of Minnesota between the FY 2006 proposed and final fee rules increased the amount of licensing and inspection resources to be recovered per NRC licensee. The impact of this action was somewhat offset by the changes listed in (2) and (3) in the preceding paragraph; the result is that there are no significant changes in materials users fees inbetween the FY 2006 proposed and final fee rules.

h. Transportation

Table XVIII shows the calculation of the FY 2006 generic transportation budgeted resources to be recovered through annual fees. (FY 2005 values shown for comparison purposes.)

TABLE XVIII.—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION

[Dollars in millions]

Summary Fee calculations/transportation	FY 2005 final	FY 2006 final
Fee Class:		
Total budgeted resources	$5.4	$6.3
Less estimated part 170 receipts	−1.1	−1.2
Net part 171 resources (required annual fee recovery)	4.3	5.1

As discussed previously, the NRC is recovering generic transportation costs unrelated to DOE as part of existing annual fees for license fee classes. Under this approach, the annual fee for fee categories 10.B.1 and 10.B.2 under § 171.16 are eliminated, but the NRC will continue to assess a separate annual fee under § 171.16, fee category 18.A, for DOE transportation activities.

The total FY 2006 budgeted resources for generic transportation activities, including those to support DOE CoCs, is $5.1 million. [Generic transportation resources associated with fee-exempt entities are not included in this total; these costs are included in the appropriate surcharge category (*e.g.*, the surcharge category for nonprofit educational institutions).] These resources are distributed to DOE (to be included in its annual fee under fee category 18.A of § 171.16) and each license fee class based on the CoCs used by DOE and each fee class, as a proxy for the generic resources expended for each fee class. (Note that the number of CoCs used by fee class is adjusted to take into account the percentage of licensees in that fee class subject to annual fees, as explained previously.) As such, the amount of the generic resources allocated is calculated by multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered.

For the FY 2006 final fee rule, the amount of generic transportation resources allocated to the fee classes was reduced by the amount of estimated annual fee collections for QA program approvals in FY 2006 (approximately $1.9 million). This is because of the timing of the issuance and effective date of the FY 2006 fee rule: The NRC is receiving payments for annual fees for transportation activities (fee categories 10.B.1 and 10.B.2 under § 171.16 for QA program approval activities) until the effective date of this fee rule. As such, these collections have been applied to the NRC's fee recovery of FY 2006 generic transportation resources. This is only a one-time adjustment because the 10.B.1 and 10.B.2 annual fees have been eliminated as of the effective date of this rule. Therefore, licensees should expect the value of these allocated transportation resources to increase in future years. Note that the NRC has applied the $1.9 million in FY 2006 QA program approval fee collections to the generic transportation resources to be recovered from the fee classes, only, and not to DOE's required annual fee recovery. This is because DOE is not subject to the QA program approval requirements as are commercial licensees. Accordingly, DOE did not pay these QA program approval fees nor benefit from these approvals.

The distribution of these resources to the license fee classes and DOE is as follows (individual values may not sum to totals due to rounding):

TABLE XIX.—DISTRIBUTION OF GENERIC TRANSPORTATION RESOURCES, FY 2006

[Dollars in millions]

	No. CoCs benefitting fee class (or DOE)	Percentage of total CoCs (percent)	Allocated generic transportation resources
License fee class/DOE:			
Total	134	100	$5.13
DOE	33	24.6	1.26
Remainder to be Recovered	.....	.....	3.87
Less Estimated FY 2006 QA program approval fee collections	.....	.....	1.90
Net Amount to be Recovered from Fee Classes	.....	.....	1.97
Fee Classes:			
Total (w/o DOE)	101	100	1.97
Operating Power Reactors	39	38.4	0.76
Spent Fuel Storage/Reactor Decommissioning	9	8.9	0.17
Test and Research Reactors	0.3	0.3	0.01
Fuel Facilities	21	20.7	0.41

TABLE XIX.—DISTRIBUTION OF GENERIC TRANSPORTATION RESOURCES, FY 2006—Continued

[Dollars in millions]

	No. CoCs benefitting fee class (or DOE)	Percentage of total CoCs (percent)	Allocated generic transportation resources
Materials Users	32	31.7	0.63

The NRC is continuing to assess DOE an annual fee based on the part 71 CoCs it holds. The NRC is not allocating these DOE-related resources to other licensees' annual fees because these resources specifically support DOE; hence the current fee recovery methodology for these resources remains efficient and equitable. Note that DOE's annual fee includes a portion of the surcharge, resulting in a total annual fee of $1,285,000 for FY 2006. This fee increases from last year due to budgeted increases for licensing/certification activities and an increase in the full cost of an FTE. The fee decreased slightly between the FY 2006 proposed and final fee rules because of a small decrease in allocated resources from the 'Homeland Security Unallocated' planned activity (discussed in Section II.D.1).

4. Eliminating the Existing Fee Payment Exception for Uranium Recovery Licensees

Under the payment provisions of § 171.19, the NRC currently bills licensees' part 171 fees annually if their annual fees are less than $100,000, and quarterly if their annual fees are $100,000 or more. However, the NRC bills Class I and Class II uranium recovery licensees quarterly in accordance with § 171.19(b), regardless of the amount of their annual fee. The NRC established this payment exception for Class I and Class II uranium recovery licensees in the FY 2001 final rule (66 FR 32452; June 14, 2001) because the annual fees for these licensees had been fluctuating just above or below $100,000. Since then, uranium recovery license fees have been well below $100,000. Because the basis of this billing exception is now not a factor, and this exception is administratively burdensome to implement with the current fee billing system, the NRC is eliminating the billing exception for Class I and Class II uranium recovery licensees. These licensees are now subject to the same payment provisions as all other licensees, as described previously.

5. Agreement State Activities

By letter dated July 6, 2004, Governor Tim Pawlenty of Minnesota requested that the NRC enter into an Agreement with the State as authorized by Section 274 of the Atomic Energy Act of 1954, as amended. The Commission approved this Agreement on January 26, 2006, and the Agreement took effect March 31, 2006. This resulted in the transfer of approximately 150 licenses to the State of Minnesota from the NRC.

Note that the continuing costs of Agreement State regulatory support and oversight for the State of Minnesota, as for any other Agreement State, are recovered through the surcharge (as reduced by the ten percent of its budget that the NRC receives in appropriations each year for these types of activities), consistent with existing policy. As discussed in Sections II.C.1 and III.B.g, the budgeted resources for the regulatory infrastructure to support these types of licensees are prorated to the surcharge based on the percent of total licensees in Agreement States. Accordingly, as a result of the State of Minnesota becoming an Agreement State, the NRC has increased the percentage of materials users regulatory infrastructure costs that are recovered through the surcharge. Specifically, this percentage increased from 79 to 80 between the FY 2006 and proposed and final fee rules. However, some resources associated with the materials users fee class are not prorated to the surcharge (*e.g.*, resources for licensing and inspection activities), because these resources are for the purpose of supporting NRC licensees, only. As such, the transfer of licensees to the State of Minnesota resulted in an increase in annual fees for some materials users licensees because the budgeted resources for activities such as licensing and inspection are now spread to fewer NRC licensees.

6. Administrative Amendments

The NRC is clarifying the definition of ''overhead and general and administrative costs'' under § 171.5. This definition provides examples of organizations that are included as ''indirect costs.'' The NRC is clarifying that certain costs of some of these organizations are not considered to be indirect; therefore, in these instances, these costs are not included in overhead and general and administrative costs. For example, the Atomic Safety and Licensing Board Panel (ASLBP) is listed as an indirect office in this definition. There are instances in which the ASLBP performs direct mission-related work, and the budgeted resources for these activities are considered to be direct in the fee calculations (consistent with the categorization of these resources in the NRC's budget). The NRC believes this clarification better reflects the most recent data on the types of budgeted resources associated with these offices. Additionally, this definition is revised to eliminate reference to an organization within the agency that no longer exists.

In summary, the NRC is—

1. Proceeding with the presumption in favor of rebaselining beginning with the FY 2006 fee rule;

2. Recovering generic transportation costs as part of other existing annual fees;

3. Revising the annual fees to reflect the FY 2006 budget and other changes;

4. Eliminating the existing fee payment exception for Class I and Class II uranium recovery licensees;

5. Revising the number of NRC licensees given that the State of Minnesota became an Agreement State; and,

6. Making an administrative change to clarify the definition of ''overhead and general and administrative costs.''

IV. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using these standards is inconsistent with applicable law or is otherwise impractical. In this final rule, the NRC is amending the licensing, inspection, and annual fees charged to its licensees and applicants as necessary to recover approximately 90 percent of its budget authority in FY 2006 as required by the Omnibus Budget Reconciliation Act of 1990, as amended. This action does not constitute the establishment of a

standard that contains generally applicable requirements.

V. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental assessment nor an environmental impact statement has been prepared for the final regulation. By its very nature, this regulatory action does not affect the environment and, therefore, no environmental justice issues are raised.

VI. Paperwork Reduction Act Statement

This final rule does not contain information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VII. Regulatory Analysis

With respect to 10 CFR part 170, this final rule was developed under Title V of the Independent Offices Appropriation Act of 1952 (IOAA) (31 U.S.C. 9701) and the Commission's fee guidelines. When developing these guidelines the Commission took into account guidance provided by the U.S. Supreme Court on March 4, 1974, in *National Cable Television Association, Inc.* v. *United States*, 415 U.S. 36 (1974) and *Federal Power Commission* v. *New England Power Company*, 415 U.S. 345 (1974). In these decisions, the Court held that the IOAA authorizes an agency to charge fees for special benefits rendered to identifiable persons measured by the ''value to the recipient'' of the agency service. The meaning of the IOAA was further clarified on December 16, 1976, by four decisions of the U.S. Court of Appeals for the District of Columbia: *National Cable Television Association* v. *Federal Communications Commission*, 554 F.2d 1094 (D.C. Cir. 1976); *National Association of Broadcasters* v. *Federal Communications Commission*, 554 F.2d 1118 (D.C. Cir. 1976); *Electronic Industries Association* v. *Federal Communications Commission*, 554 F.2d 1109 (D.C. Cir. 1976); and *Capital Cities Communication, Inc.* v. *Federal Communications Commission*, 554 F.2d 1135 (D.C. Cir. 1976). The Commission's fee guidelines were developed based on these legal decisions.

The Commission's fee guidelines were upheld on August 24, 1979, by the U.S. Court of Appeals for the Fifth Circuit in *Mississippi Power and Light Co.* v. *U.S. Nuclear Regulatory Commission*, 601 F.2d 223 (5th Cir. 1979), *cert. denied*, 444 U.S. 1102 (1980). This court held that—

(1) The NRC had the authority to recover the full cost of providing services to identifiable beneficiaries;

(2) The NRC could properly assess a fee for the costs of providing routine inspections necessary to ensure a licensee's compliance with the Atomic Energy Act of 1954 and with applicable regulations;

(3) The NRC could charge for costs incurred in conducting environmental reviews required by the National Environmental Policy Act;

(4) The NRC properly included the costs of uncontested hearings and of administrative and technical support services in the fee schedule;

(5) The NRC could assess a fee for renewing a license to operate a low-level radioactive waste burial site; and

(6) The NRC's fees were not arbitrary or capricious.

With respect to 10 CFR part 171, on November 5, 1990, the Congress passed OBRA–90, which required that, for FYs 1991 through 1995, approximately 100 percent of the NRC budget authority be recovered through the assessment of fees. OBRA–90 was subsequently amended to extend the 100 percent fee recovery requirement through FY 2000. As mentioned previously, the FY 2001 EWDAA amended OBRA–90 to decrease the NRC's fee recovery amount by 2 percent per year beginning in FY 2001, until the fee recovery amount was 90 percent in FY 2005. The FY 2006 EWDAA extended this 90 percent fee recovery requirement through FY 2006. As a result, the NRC is required to recover approximately 90 percent of its FY 2006 budget authority, less the amounts appropriated from the NWF and for WIR activities, through fees. To comply with this statutory requirement and in accordance with § 171.13, the NRC is publishing the amount of the FY 2006 annual fees for reactor licensees, fuel cycle licensees, materials licensees, and holders of Certificates of Compliance, registrations of sealed source and devices, and Government agencies. OBRA–90, consistent with the accompanying Conference Committee Report, and the amendments to OBRA–90, provides that—

(1) The annual fees be based on approximately 90 percent of the Commission's FY 2006 budget of $741.5 million less the funds directly appropriated from the NWF to cover the NRC's high-level waste program and for WIR activities, and less the amount of funds collected from part 170 fees;

(2) The annual fees shall, to the maximum extent practicable, have a reasonable relationship to the cost of regulatory services provided by the Commission; and

(3) The annual fees be assessed to those licensees the Commission, in its discretion, determines can fairly, equitably, and practicably contribute to their payment.

10 CFR part 171, which established annual fees for operating power reactors effective October 20, 1986 (51 FR 33224; September 18, 1986), was challenged and upheld in its entirety in *Florida Power and Light Company* v. *United States*, 846 F.2d 765 (D.C. Cir. 1988), *cert. denied*, 490 U.S. 1045 (1989). Further, the NRC's FY 1991 annual fee rule methodology was upheld by the D.C. Circuit Court of Appeals in *Allied Signal* v. *NRC*, 988 F.2d 146 (D.C. Cir. 1993).

VIII. Regulatory Flexibility Analysis

The NRC is required by the Omnibus Budget Reconciliation Act of 1990, as amended, to recover approximately 90 percent of its FY 2006 budget authority through the assessment of user fees. This Act further requires that the NRC establish a schedule of charges that fairly and equitably allocates the aggregate amount of these charges among licensees.

This final rule establishes the schedules of fees that are necessary to implement the Congressional mandate for FY 2006. This rule will result in increases in the annual fees charged to certain licensees and holders of certificates, registrations, and approvals, and decreases in annual fees for others. Licensees affected by the annual fee increases and decreases include those that qualify as a small entity under NRC's size standards in 10 CFR 2.810. The Regulatory Flexibility Analysis, prepared in accordance with 5 U.S.C. 604, is included as Appendix A to this final rule.

The Congressional Review Act of 1996 requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. Therefore, in compliance with the law, Attachment 1 to the Regulatory Flexibility Analysis is the small entity compliance guide for FY 2006.

IX. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and that a backfit analysis is not required for this final rule. The backfit analysis is not required because these amendments do not require the modification of, or additions to systems, structures, components, or

the design of a facility, or the design approval or manufacturing license for a facility, or the procedures or organization required to design, construct, or operate a facility.

X. Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121, the NRC has determined that this action is a major rule and has verified the determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

List of Subjects

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, registrations, approvals, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 170 and 171.

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

■ 1. The authority citation for part 170 is revised to read as follows:

Authority: Sec. 9701, Pub. L. 97–258, 96 Stat. 1051 (31 U.S.C. 9701); sec. 301, Pub. L. 92–314, 86 Stat. 227 (42 U.S.C. 2201w); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 205a, Pub. L. 101–576, 104 Stat. 2842, as amended (31 U.S.C. 901, 902); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 623, Pub. L. 109–58, 119 Stat. 783 (42 U.S.C. 2201(w)).

■ 2. In § 170.3, the definition of *special projects* is revised to read as follows:

§ 170.3 Definitions.

* * * * *

Special projects means those requests submitted to the Commission for review for which fees are not otherwise specified in this chapter and contested hearings on licensing actions directly related to U.S. Government national security initiatives, as determined by the NRC. Examples of special projects include, but are not limited to, contested hearings on licensing actions directly related to Presidentially-directed national security programs, topical report reviews, early site reviews, waste solidification facilities, activities related to the tracking and monitoring of shipment of classified matter, services provided to certify licensee, vendor, or other private industry personnel as instructors for part 55 reactor operators, reviews of financial assurance submittals that do not require a license amendment, reviews of responses to Confirmatory Action Letters, reviews of uranium recovery licensees' land-use survey reports, and reviews of 10 CFR 50.71 final safety analysis reports. *Special projects* does not include those contested hearings for which a fee exemption is granted in § 170.11(a)(2), including those related to individual plant security modifications.

* * * * *

■ 3. In § 170.11, paragraph (a)(5) is removed and reserved, and paragraph (a)(4)(iii) and the introductory text of paragraph (a)(9), paragraph (a)(9)(i) and the introductory text of paragraph (a)(9)(ii) are revised as follows:

§ 170.11 Exemptions.

(a) * * *

(4) * * *

(iii) Distribution of byproduct material, source material, or special nuclear material or products containing byproduct material, source material or special nuclear material; or

* * * * *

(9) Federally-owned and State-owned research reactors used primarily for educational training and academic research purposes. For purposes of this exemption, the term research reactor means a nuclear reactor that—

(i) Is licensed by the Nuclear Regulatory Commission under section 104c. of the Atomic Energy Act of 1954 (42 U.S.C. 2134(c)) at a thermal power level of 10 megawatts or less; and

(ii) If so licensed at a thermal power level of more than 1 megawatt, does not contain—

* * * * *

■ 4. Section 170.20 is revised to read as follows:

§ 170.20 Average cost per professional staff-hour.

Fees for permits, licenses, amendments, renewals, special projects, part 55 re-qualification and replacement examinations and tests, other required reviews, approvals, and inspections under §§ 170.21 and 170.31 will be calculated using the following applicable professional staff-hour rates:

(a) Reactor Program (§ 170.21 Activities, excluding reactor decommissioning and import/export licensing activities): $217 per hour

(b) Nuclear Materials and Nuclear Waste Program (§ 170.31 Activities, as well as the reactor decommissioning and import/export licensing activities covered under § 170.21): $214 per hour

■ 5. In § 170.21, Category K and footnote 1 in the table are revised to read as follows:

§ 170.21 Schedule of fees for production and utilization facilities, review of standard referenced design approvals, special projects, inspections and import and export licenses.

* * * * *

SCHEDULE OF FACILITY FEES

[See footnotes at end of table]

Facility categories and type of fees	Fees [1] [2]
* * * * * * *	
K. Import and export licenses:	
Licenses for the import and export only of production and utilization facilities or the export only of components for production and utilization facilities issued under 10 CFR Part 110.	
1. Application for import or export of production and utilization facilities [4] (including reactors and other facilities) and exports of components requiring Commission and Executive Branch review, for example, actions under 10 CFR 110.40(b).	
Application—new license, or amendment	$13,900

SCHEDULE OF FACILITY FEES—Continued

[See footnotes at end of table]

Facility categories and type of fees	Fees [1] [2]
2. Application for export of reactor and other components requiring Executive Branch review only, for example, those actions under 10 CFR 110.41(a)(1)–(8).	
Application—new license, or amendment	$8,100
3. Application for export of components requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application—new license, or amendment	$2,600
4. Application for export of facility components and equipment (examples provided in 10 CFR part 110, Appendix A, Items (5) through (9)) not requiring Commission or Executive Branch review, or obtaining foreign government assurances.	
Application—new license, or amendment	$1,700
5. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms or conditions or to the type of facility or component authorized for export and therefore, do not require in-depth analysis or review or consultation with the Executive Branch, U.S. host state, or foreign government authorities.	
Minor amendment	$320

[1] Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under § 2.202 of this chapter or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (*e.g.*, 10 CFR 50.12, 73.5) and any other sections in effect now or in the future, regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. Fees for licenses in this schedule that are initially issued for less than full power are based on review through the issuance of a full power license (generally full power is considered 100 percent of the facility's full rated power). Thus, if a licensee received a low power license or a temporary license for less than full power and subsequently receives full power authority (by way of license amendment or otherwise), the total costs for the license will be determined through that period when authority is granted for full power operation. If a situation arises in which the Commission determines that full operating power for a particular facility should be less than 100 percent of full rated power, the total costs for the license will be at that determined lower operating power level and not at the 100 percent capacity.

[2] Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect at the time the service was provided. For those applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984, and July 2, 1990, rules, but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports whose costs exceed $50,000. Costs which exceed $50,000 for any topical report, amendment, revision or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the applicable rate established in § 170.20.

* * * * * * *

[4] Imports only of major components for end-use at NRC-licensed reactors are now authorized under NRC general import license.

■ 6. Section 170.31 is revised to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

Applicants for materials licenses, import and export licenses, and other regulatory services, and holders of materials licenses or import and export licenses shall pay fees for the following categories of services. For those fee categories identified to be subject to full cost fees, full cost fees will be assessed for all licensing and inspection activities, unless otherwise indicated.

SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
1. Special nuclear material:	
A.(1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium)	Full Cost.
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel	Full Cost.
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations	Full Cost.
(b) Gas centrifuge enrichment demonstration facilities	Full Cost.
(c) Hot cell facilities	Full Cost.
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI).	Full Cost.
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers: [4]	
Application	$990.
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in § 150.11 of this chapter, for which the licensee shall pay the same fees as those for Category 1A: [4]	
Application	$2,000.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2 3]
E. Licenses or certificates for construction and operation of a uranium enrichment facility	Full Cost.
2. Source material:	
A.(1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride	Full Cost.
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, ore buying stations, ion exchange facilities and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Class I facilities [4]	Full Cost.
(b) Class II facilities [4]	Full Cost.
(c) Other facilities [4]	Full Cost.
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2A(2) or Category 2A(4).	Full Cost.
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2A(2).	Full Cost.
B. Licenses which authorize the possession, use, and/or installation of source material for shielding:	
Application	$240.
C. All other source material licenses:	
Application	$8,400.
3. Byproduct material:	
A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution:	
Application	$10,000.
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution:	
Application	$3,800.
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). These licenses are covered by fee Category 3D.	
Application	$5,100.
D. Licenses and approvals issued under §§ 32.72 and/or 32.74 of this chapter authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources or devices not involving processing of byproduct material. This category includes licenses issued under §§ 32.72 and/or 32.74 of this chapter to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4).	
Application	$3,600.
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units):	
Application	$2,500.
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application	$5,000.
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application	$12,000.
H. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter:	
Application	$14,600.
I. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter:	
Application	$8,700.
J. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter:	
Application	$1,500.
K. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter:	
Application	$880.
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution:	
Application	$8,400.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2 3]
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution:	
Application	$3,400.
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3P; and	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4A, 4B, and 4C:	
Application	$3,800.
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations:	
Application	$3,500.
P. All other specific byproduct material licenses, except those in Categories 4A through 9D:	
Application	$1,200.
Q. Registration of a device(s) generally licensed under part 31 of this chapter:	
Registration	$730.
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material:	Full Cost.
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:	
Application	$2,600.
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:	
Application	$3,900.
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies:	
Application	$1,400.
B. Licenses for possession and use of byproduct material for field flooding tracer studies:	
Licensing	Full Cost.
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material:	
Application	$17,100.
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:	
Application	$9,400.
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:	
Application	$6,700.
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:	
Application	$2,300.
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities:	
Application	$490.
9. Device, product, or sealed source safety evaluation:	
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution:	
Application—each device	$21,000.
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices:	
Application—each device	$21,000.
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution:	
Application—each source	$2,400.
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel:	
Application—each source	$810.
10. Transportation of radioactive material:	
A. Evaluation of casks, packages, and shipping containers:	
1. Spent Fuel, High-Level Waste, and plutonium air packages	Full Cost.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2 3]
2. Other Casks	Full Cost.
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators	
Application	$5,600.
Inspections	Full Cost.
2. Users	
Application	$5,600.
Inspections	Full Cost.
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	Full Cost.
11. Review of standardized spent fuel facilities	Full Cost.
12. Special projects:	
Including approvals, preapplication/licensing activities, and inspections	Full Cost.
13. A. Spent fuel storage cask Certificate of Compliance	Full Cost.
B. Inspections related to storage of spent fuel under § 72.210 of this chapter	Full Cost.
14. A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter.	Full Cost.
B. Site-specific decommissioning activities associated with unlicensed sites, regardless of whether or not the sites have been previously licensed. Part 170 fees for these activities will not be charged until July 25, 2006.	Full Cost.
15. Import and Export licenses:	
Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A through 15.E).	
A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under 10 CFR 110.40(b).	
Application—new license, or amendment	$13,900.
B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires NRC to consult with domestic host state authorities, Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.	
Application—new license, or amendment	$8,100.
C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application—new license, or amendment	$2,600.
D. Application for export or import of nuclear material, including radioactive waste, not requiring Commission or Executive Branch review, or obtaining foreign government assurances. This category includes applications for export or import of radioactive waste where the NRC has previously authorized the export or import of the same form of waste to or from the same or similar parties located in the same country, requiring only confirmation from the receiving facility and licensing authorities that the shipments may proceed according to previously agreed understandings and procedures.	
Application—new license, or amendment	$1,700.
E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities.	
Minor amendment	$320.
Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in Appendix P to part 110 of this chapter (fee categories 15.F through 15.R).[5]	
Category 1 Exports:	
F. Application for export of Category 1 materials involving an exceptional circumstances review under 10 CFR 110.42(e)(4).	
Application—new license, or amendment	$13,900.
G. Application for export of Category 1 materials requiring Executive Branch review, Commission review, and government to government consent.	
Application—new license, or amendment	$8,100.
H. Application for export of Category 1 materials requiring Commission review and government to government consent.	
Application—new license, or amendment	$5,100.
I. Application for export of Category 1 material requiring government to government consent.	
Application—new license, or amendment	$4,300.
Category 2 Exports:	
J. Application for export of Category 2 materials involving an exceptional circumstances review under 10 CFR 110.42(e)(4).	
Application—new license, or amendment	$13,900.
K. Applications for export of Category 2 materials requiring Executive Branch review and Commission review.	
Application—new license, or amendment	$8,100.
L. Application for the export of Category 2 materials.	
Application—new license, or amendment	$3,900.
Category 1 Imports:	
M. Application for the import of Category 1 material requiring Commission review.	
Application—new license, or amendment	$4,100.
N. Application for the import of Category 1 material.	
Application—new license, or amendment	$3,400.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2 3]
Category 2 Imports:	
O. Application for the import of Category 2 material.	
Application—new license, or amendment	$3,000.
Category 1 Imports with Agent and Multiple Licensees:	
P. Application for the import of Category 1 material with agent and multiple licensees requiring Commission review.	
Application—new license, or amendment	$4,700.
Q . Application for the import of Category 1 material with agent and multiple licensees.	
Application—new license, or amendment	$3,900.
Minor Amendments (Category 1 and 2 Export and Imports):	
R. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities.	
Minor amendment	$ 320.
16. Reciprocity:	
Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20.	
Application	$1,900.
17. Master materials licenses of broad scope issued to Government agencies:	
Application	$17,800.
18. Department of Energy	
A. Certificates of Compliance. Evaluation of casks, packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages).	Full Cost.
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	Full Cost.

[1] *Types of fee*—Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession only licenses; issuance of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(a) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(2) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee Category 1C only.

(b) *Licensing fees.* Fees for reviews of applications for new licenses and for renewals and amendments to existing licenses, for pre-application consultations and for reviews of other documents submitted to NRC for review, and for project manager time for fee categories subject to full cost fees (fee Categories 1A, 1B, 1E, 2A, 4A, 5B, 10A, 11, 12, 13A, and 14) are due upon notification by the Commission in accordance with § 170.12(b).

(c) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to a license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(d) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and non-routine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(e) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

[2] Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under 10 CFR 2.202 or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (e.g., 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in Categories 9A through 9D.

[3] Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect at the time the service is provided, and the appropriate contractual support services expended. For applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984, and July 2, 1990, rules, but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports whose costs exceed $50,000. Costs which exceed $50,000 for each topical report, amendment, revision, or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the applicable rate established in § 170.20.

[4] Licensees paying fees under Categories 1A, 1B, and 1E are not subject to fees under Categories 1C and 1D for sealed sources authorized in the same license except for an application that deals only with the sealed sources authorized by the license.

[5] For a combined import and export license application for material listed in Appendix P to part 110 of this chapter, only the higher of the two applicable fee amounts must be paid.

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

■ 7. The authority citation for part 171 is revised to read as follows:

Authority: Sec. 7601, Pub. L. 99–272, 100 Stat. 146, as amended by sec. 5601, Pub. L. 100–203, 101 Stat. 1330, as amended by sec. 3201, Pub. L. 101–239, 103 Stat. 2132, as amended by sec. 6101, Pub. L. 101–508, 104 Stat. 1388, as amended by sec. 2903a, Pub. L. 102–486, 106 Stat. 3125 (42 U.S.C. 2213, 2214), and as amended by Title IV, Pub. L. 109–103, 119 Stat. 2283 (42 U.S.C. 2214); sec. 301, Pub. L. 92–314, 86 Stat. 227 (42 U.S.C. 2201w); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

■ 8. In § 171.5, the definition of Overhead and general and administrative costs is revised to read as follows:

§ 171.5 Definitions.

* * * * *

Overhead and *general and administrative costs* means:

(1) The Government benefits for each employee such as leave and holidays, retirement and disability benefits, health and life insurance costs, and social security costs;

(2) Travel costs;

(3) Direct overhead [*e.g.*, supervision and support staff that directly support the NRC safety mission areas; administrative support costs (*e.g.*, rental of space, equipment, telecommunications and supplies)]; and

(4) Indirect costs that would include, but not be limited to, NRC central policy direction, legal and executive management services for the Commission and special and independent reviews, investigations, and enforcement and appraisal of NRC programs and operations. Some of the organizations included, in whole or in part, are the Commissioners, Secretary, Executive Director for Operations, General Counsel, Congressional and Public Affairs (except for international safety and safeguards programs), Inspector General, Investigations, Enforcement, Small and Disadvantaged Business Utilization and Civil Rights, the Technical Training Center, Advisory Committees on Nuclear Waste and Reactor Safeguards, and the Atomic Safety and Licensing Board Panel. The Commission views these budgeted costs as support for all its regulatory services provided to applicants, licensees, and certificate holders, and these costs must be recovered under Public Law 101–508.

* * * * *

■ 9. In § 171.15 paragraphs (b), (c), (d), and (e) are revised to read as follows:

§ 171.15 Annual fees: Reactor licenses and independent spent fuel storage licenses.

* * * * *

(b)(1) The FY 2006 annual fee for each operating power reactor which must be collected by September 30, 2006, is $3,704,000.

(2) The FY 2006 annual fee is comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges (surcharges). The activities comprising the FY 2006 spent storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2006 surcharge are shown in paragraph (d)(1) of this section. The activities comprising the FY 2006 base annual fee for operating power reactors are as follows:

(i) Power reactor safety and safeguards regulation except licensing and inspection activities recovered under part 170 of this chapter and generic reactor decommissioning activities.

(ii) Research activities directly related to the regulation of power reactors, except those activities specifically related to reactor decommissioning.

(iii) Generic activities required largely for NRC to regulate power reactors (*e.g.*, updating part 50 of this chapter, or operating the Incident Response Center). The base annual fee for operating power reactors does not include generic activities specifically related to reactor decommissioning.

(c)(1) The FY 2006 annual fee for each power reactor holding a 10 CFR part 50 license that is in a decommissioning or possession only status and has spent fuel onsite and each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license is $173,000.

(2) The FY 2006 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section), and an additional charge (surcharge). The activities comprising the FY 2006 surcharge are shown in paragraph (d)(1) of this section. The activities comprising the FY 2006 spent fuel storage/reactor decommissioning rebaselined annual fee are:

(i) Generic and other research activities directly related to reactor decommissioning and spent fuel storage; and

(ii) Other safety, environmental, and safeguards activities related to reactor decommissioning and spent fuel storage, except costs for licensing and inspection activities that are recovered under part 170 of this chapter.

(d)(1) The activities comprising the FY 2006 surcharge are as follows:

(i) Low-level waste disposal generic activities;

(ii) Activities not attributable to an existing NRC licensee or class of licenses (*e.g.*, international cooperative safety program and international safeguards activities, support for the Agreement State program, decommissioning activities for unlicensed sites, and activities for unregistered general licensees); and

(iii) Activities not currently subject to 10 CFR part 170 licensing and inspection fees based on existing law or Commission policy (*e.g.*, reviews and inspections conducted of nonprofit educational institutions, licensing actions for Federal agencies, and costs that would not be collected from small entities based on Commission policy in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*).

(2) The total FY 2006 surcharge allocated to the operating power reactor class of licenses is $5.5 million, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2006 operating power reactor surcharge to be assessed to each operating power reactor is approximately $53,000. This amount is calculated by dividing the total operating power reactor surcharge ($5.5 million) by the number of operating power reactors (104).

(3) The FY 2006 surcharge allocated to the spent fuel storage/reactor decommissioning class of licenses is $152,000. The FY 2006 spent fuel storage/reactor decommissioning surcharge to be assessed to each operating power reactor, each power reactor in decommissioning or possession only status that has spent fuel onsite, and to each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license is approximately $1,200. This amount is calculated by dividing the total surcharge costs allocated to this class by the total number of power reactor licenses, except those that permanently ceased operations and have no fuel onsite, and 10 CFR part 72

licensees who do not hold a 10 CFR part 50 license.

(e) The FY 2006 annual fees for licensees authorized to operate a test and research (non-power) reactor licensed under part 50 of this chapter, unless the reactor is exempted from fees under § 171.11(a), are as follows:

Research reactor—$80,100.
Test reactor—$80,100.

■ 10. In § 171.16, the section heading and paragraph (d) are revised to read as follows:

§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.

* * * * *

(d) The FY 2006 annual fees are comprised of a base annual fee and an additional charge (surcharge). The activities comprising the FY 2006 surcharge are shown for convenience in paragraph (e) of this section. The FY 2006 annual fees for materials licensees and holders of certificates, registrations or approvals subject to fees under this section are shown in the following table:

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees[1 2 3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium)	$5,420,000
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel	1,596,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations	605,000
(b) Gas centrifuge enrichment demonstration facilities	991,000
(c) Hot cell facilities	440,000
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI)	[11] N/A
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers	2,500
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in § 150.11 of this chapter, for which the licensee shall pay the same fees as those for Category 1.A.(2)	6,900
E. Licenses or certificates for the operation of a uranium enrichment facility	3,027,000
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride	1,046,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, ore buying stations, ion exchange facilities and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Class I facilities[4]	65,900
(b) Class II facilities[4]	65,900
(c) Other facilities[4]	95,900
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2A(2) or Category 2A(4)	[5] N/A
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2A(2)	65,900
B. Licenses that authorize only the possession, use and/or installation of source material for shielding	890
C. All other source material licenses	14,800
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution	28,900
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution	9,400
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when included on the same license. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 171.11(a)(1). These licenses are covered by fee under Category 3D	11,600
D. Licenses and approvals issued under §§ 32.72 and/or 32.74 of this chapter authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of byproduct material. This category includes licenses issued under §§ 32.72 and 32.74 of this chapter to nonprofit educational institutions whose processing or manufacturing is exempt under § 171.11(a)(1). This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when included on the same license	6,600
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units)	4,800
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes	8,600

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees[1 2 3]
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes	31,100
H. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter	19,300
I. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter	11,700
J. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter	3,200
K. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter	1,900
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution	16,400
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution	6,900
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3P; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4A, 4B, and 4C	7,300
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license	15,400
P. All other specific byproduct material licenses, except those in Categories 4A through 9D	2,900
Q. Registration of devices generally licensed under part 31 of this chapter	[13] N/A
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material	[5] N/A
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material	12,900
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material	9,700
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies	4,800
B. Licenses for possession and use of byproduct material for field flooding tracer studies	[5] N/A
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material	27,400
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license	15,100
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35,40, and 70 of this chapter authorizing research and development, including human use of byproduct material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9]	33,000
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9]	6,000
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities	1,900
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution	25,700

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees[1 2 3]
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	25,700
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	2,900
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	1,000
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	[6] N/A
2. Other Casks	[6] N/A
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators	[6] N/A
2. Users	[6] N/A
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices)	[6] N/A
11. Standardized spent fuel facilities	[6] N/A
12. Special Projects	[6] N/A
13. A. Spent fuel storage cask Certificate of Compliance	[6] N/A
B. General licenses for storage of spent fuel under 10 CFR 72.210	[12] N/A
14. Decommissioning/Reclamation:	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter	[7] N/A
B. Site-specific decommissioning activities associated with unlicensed sites, regardless of whether or not the sites have been previously licensed	[7] N/A
15. Import and Export licenses	[8] N/A
16. Reciprocity	[8] N/A
17. Master materials licenses of broad scope issued to Government agencies	373,000
18. Department of Energy:	
A. Certificates of Compliance	[10] 1,285,000
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	732,000

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current fiscal year. However, the annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1, 2006, and permanently ceased licensed activities entirely by September 30, 2006. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession only license during the fiscal year and for new licenses issued during the fiscal year will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (*e.g.,* human use and irradiator activities), annual fees will be assessed for each category applicable to the license. Licensees paying annual fees under Category 1A(1) are not subject to the annual fees for Categories 1C and 1D for sealed sources authorized in the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

[3] Each fiscal year, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the **Federal Register** for notice and comment.

[4] A Class I license includes mill licenses issued for the extraction of uranium from uranium ore. A Class II license includes solution mining licenses (in-situ and heap leach) issued for the extraction of uranium from uranium ores including research and development licenses. An ''other'' license includes licenses for extraction of metals, heavy metals, and rare earths.

[5] There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

[6] Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance and related Quality Assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions who also hold nuclear medicine licenses under Categories 7B or 7C.

[10] This includes Certificates of Compliance issued to DOE that are not under the Nuclear Waste Fund.

[11] See § 171.15(c).

[12] See § 171.15(c).

[13] No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.

* * * * *

■ 11. In § 171.19 paragraphs (b) and (d) are revised to read as follows:

§ 171.19 Payment.

* * * * *

(b) Annual fees in the amount of $100,000 or more and described in the **Federal Register** document issued under § 171.13, must be paid in quarterly installments of 25 percent as billed by the NRC. The quarters begin on October 1, January 1, April 1, and July 1 of each fiscal year. The NRC will adjust the fourth quarterly invoice to recover the full amount of the revised annual fee. If the amounts collected in the first three quarters exceed the

amount of the revised annual fee, the overpayment will be refunded. Licensees whose annual fee for the previous fiscal year was less than $100,000 (billed on the anniversary date of the license), and whose revised annual fee for the current fiscal year is $100,000 or greater (subject to quarterly billing), will be issued a bill upon publication of the final rule for the full amount of the revised annual fee for the current fiscal year, less any payments received for the current fiscal year based on the anniversary date billing process.

* * * * *

(d) Annual fees of less than $100,000 must be paid as billed by the NRC. Materials license annual fees that are less than $100,000 are billed on the anniversary date of the license. The materials licensees that are billed on the anniversary date of the license are those covered by fee categories 1C, 1D, 2A(2) Other Facilities, 2A(3), 2A(4), 2B, 2C, 3A through 3P, and 4B through 9D.

* * * * *

Dated at Rockville, Maryland, this 16th day of May, 2006.

For the Nuclear Regulatory Commission.

Jesse L. Funches,

Chief Financial Officer.

Note: This Appendix will not appear in the Code of Federal Regulations.

Appendix A to this Final Rule

Final Regulatory Flexibility Analysis for the Amendments to 10 CFR part 170 (License Fees) and 10 CFR Part 171 (Annual Fees)

I. Background

The Regulatory Flexibility Act (RFA), as amended (5 U.S.C. 601 *et seq.*), requires that agencies consider the impact of their rulemakings on small entities and, consistent with applicable statutes, consider alternatives to minimize these impacts on the businesses, organizations, and government jurisdictions to which they apply.

The NRC has established standards for determining which NRC licensees qualify as small entities (10 CFR 2.810). These size standards were established based on the Small Business Administration's most common receipts-based size standards and include a size standard for business concerns that are manufacturing entities. The NRC uses the size standards to reduce the impact of annual fees on small entities by establishing a licensee's eligibility to qualify for a maximum small entity fee. The small entity fee categories in § 171.16(c) of this final rule are based on the NRC's size standards.

From FY 1991 through FY 2000, the Omnibus Budget Reconciliation Act (OBRA–90) (Pub. L. 101–508), as amended, required that the NRC recover approximately 100 percent of its budget authority, less appropriations from the Nuclear Waste Fund, by assessing license and annual fees. The FY 2001 Energy and Water Development Appropriations Act (Pub. L. 106–377) amended OBRA–90 to decrease the NRC's fee recovery amount by 2 percent per year beginning in FY 2001, until the fee recovery amount was 90 percent in FY 2005. The FY 2006 Energy and Water Development Appropriations Act (Pub. L. 109–103) extended this 90 percent fee recovery requirement through FY 2006. As a result, the NRC is required to recover approximately 90 percent of its FY 2006 budget authority, less the amounts appropriated from the Nuclear Waste Fund (NWF) and for Waste Incidental to Reprocessing (WIR) activities, through fees. The total amount NRC is required to recover in fees for FY 2006 is approximately $624.0 million.

OBRA–90 requires that the schedule of charges established by rulemaking should fairly and equitably allocate the total amount to be recovered from the NRC's licensees and be assessed under the principle that licensees who require the greatest expenditure of agency resources pay the greatest annual charges. Since FY 1991, the NRC has complied with OBRA–90 by issuing a final rule that amends its fee regulations. These final rules have established the methodology used by NRC in identifying and determining the fees to be assessed and collected in any given fiscal year.

The Commission is rebaselining its part 171 annual fees in FY 2006. Rebaselining fees results in increased annual fees for all licensees, with the exception of certain fuel facilities.

The Congressional Review Act of 1996 is intended to reduce regulatory burdens imposed by Federal agencies on small businesses, nonprofit organizations, and governmental jurisdictions. This Act also provides Congress with the opportunity to review agency rules before they go into effect. Under this legislation, the NRC annual fee rule is considered a ''major'' rule and must be reviewed by Congress and the Comptroller General before the rule becomes effective. The Congressional Review Act also requires that an agency prepare a guide to assist small entities in complying with each rule for which a final RFA is prepared. This RFA and the small entity compliance guide (Attachment 1) have been prepared for the FY 2006 fee rule as required by law.

II. Impact on Small Entities

The fee rule results in substantial fees being charged to those individuals, organizations, and companies that are licensed by the NRC, including those licensed under the NRC materials program. The comments received on previous proposed fee rules and the small entity certifications received in response to previous final fee rules indicate that NRC licensees qualifying as small entities under the NRC's size standards are primarily materials licensees. Therefore, this analysis will focus on the economic impact of the annual fees on materials licensees. In FY 2005, about 26 percent of these licensees (approximately 1,200 licensees) requested small entity certification.

The commenters on previous fee rulemakings consistently indicated that the following results would occur if the proposed annual fees were not modified:

1. Large firms would gain an unfair competitive advantage over small entities. Commenters noted that small and very small companies (''Mom and Pop'' operations) would find it more difficult to absorb the annual fee than a large corporation or a high-volume type of operation. In competitive markets, such as soil testing, annual fees would put small licensees at an extreme competitive disadvantage with their much larger competitors because the proposed fees would be the same for a two-person licensee as for a large firm with thousands of employees.

2. Some firms would be forced to cancel their licenses. A licensee with receipts of less than $500,000 per year stated that the proposed rule would, in effect, force it to relinquish its soil density gauge and license, thereby reducing its ability to do its work effectively. Other licensees, especially well-loggers, noted that the increased fees would force small businesses to get rid of the materials license altogether. Commenters stated that the proposed rule would result in about 10 percent of the well-logging licensees terminating their licenses immediately and approximately 25 percent terminating their licenses before the next annual assessment.

3. Some companies would go out of business.

4. Some companies would have budget problems. Many medical licensees noted that, along with reduced reimbursements, the proposed increase of the existing fees and the introduction of additional fees would significantly affect their budgets. Others noted that, in view of the cuts by Medicare and other third party carriers, the fees would produce a hardship and some facilities would experience a great deal of difficulty in meeting this additional burden.

Over 3,000 license, approval, and registration terminations have been requested since the NRC first established annual fees for materials licenses. Although some of these terminations were requested because the license was no longer needed or licenses or registrations could be combined, indications are that other termination requests were due to the economic impact of the fees.

To alleviate the significant impact of the annual fees on a substantial number of small entities, the NRC considered the following alternatives in accordance with the RFA in developing each of its fee rules since FY 1991.

1. Base fees on some measure of the amount of radioactivity possessed by the licensee (*e.g.*, number of sources).

2. Base fees on the frequency of use of the licensed radioactive material (*e.g.*, volume of patients).

3. Base fees on the NRC size standards for small entities.

The NRC has reexamined its previous evaluations of these alternatives and continues to believe that establishment of a maximum fee for small entities is the most appropriate and effective option for reducing the impact of its fees on small entities.

III. Maximum Fee

The RFA and its implementing guidance do not provide specific guidelines on what

constitutes a significant economic impact on a small entity; therefore, the NRC has no benchmark to assist it in determining the amount or the percent of gross receipts that should be charged to a small entity. In developing the maximum small entity annual fee in FY 1991, the NRC examined its 10 CFR part 170 licensing and inspection fees and Agreement State fees for those fee categories which were expected to have a substantial number of small entities. Six Agreement States (Washington, Texas, Illinois, Nebraska, New York, and Utah), were used as benchmarks in the establishment of the maximum small entity annual fee in FY 1991. Because small entities in those Agreement States were paying the fees, the NRC concluded that these fees did not have a significant impact on a substantial number of small entities. Therefore, those fees were considered a useful benchmark in establishing the NRC maximum small entity annual fee.

The NRC maximum small entity fee was established as an annual fee only. In addition to the annual fee, NRC small entity licensees were required to pay amendment, renewal and inspection fees. In setting the small entity annual fee, NRC ensured that the total amount small entities paid annually would not exceed the maximum paid in the six benchmark Agreement States.

Of the six benchmark states, the maximum Agreement State fee of $3,800 in Washington was used as the ceiling for the total fees. Thus the NRC's small entity fee was developed to ensure that the total fees paid by NRC small entities would not exceed $3,800. Given the NRC's FY 1991 fee structure for inspections, amendments, and renewals, a small entity annual fee established at $1,800 allowed the total fee (small entity annual fee plus yearly average for inspections, amendments and renewal fees) for all categories to fall under the $3,800 ceiling.

In FY 1992, the NRC introduced a second, lower tier to the small entity fee in response to concerns that the $1,800 fee, when added to the license and inspection fees, still imposed a significant impact on small entities with relatively low gross annual receipts. For purposes of the annual fee, each small entity size standard was divided into an upper and lower tier. Small entity licensees in the upper tier continued to pay an annual fee of $1,800 while those in the lower tier paid an annual fee of $400.

Based on the changes that had occurred since FY 1991, the NRC re-analyzed its maximum small entity annual fees in FY 2000, and determined that the small entity fees should be increased by 25 percent to reflect the increase in the average fees paid by other materials licensees since FY 1991, as well as changes in the fee structure for materials licensees. The structure of the fees that NRC charged to its materials licensees changed during the period between 1991 and 1999. Costs for materials license inspections, renewals, and amendments, which were previously recovered through part 170 fees for services, are now included in the part 171 annual fees assessed to materials licensees. As a result, the maximum small entity annual fee increased from $1,800 to $2,300 in FY 2000. By increasing the maximum annual fee for small entities from $1,800 to $2,300, the annual fee for many small entities was reduced while at the same time materials licensees, including small entities, would pay for most of the costs attributable to them. The costs not recovered from small entities are allocated to other materials licensees and to power reactors.

While reducing the impact on many small entities, the NRC determined that the maximum annual fee of $2,300 for small entities may continue to have a significant impact on materials licensees with annual gross receipts in the thousands of dollars range. Therefore, the NRC continued to provide a lower-tier small entity annual fee for small entities with relatively low gross annual receipts, and for manufacturing concerns and educational institutions not State or publicly supported, with less than 35 employees. The NRC also increased the lower tier small entity fee by the same percentage increase to the maximum small entity annual fee. This 25 percent increase resulted in the lower tier small entity fee increasing from $400 to $500 in FY 2000.

The NRC stated in the RFA for the FY 2001 final fee rule that it would re-examine the small entity fees every two years, in the same years in which it conducts the biennial review of fees as required by the Chief Financial Officer's Act. Accordingly, the NRC examined the small entity fees again in FY 2003 (68 FR 36714; June 18, 2003), and determined that a change was not warranted to the small entity fees established in FY 2003.

The NRC again re-examined the small entity fees for FY 2005, and did not believe that a change to the small entity fees was warranted. Unlike the annual fees assessed to other licensees, the small entity fees are not designed to recover the agency costs associated with particular licensees. Instead, the reduced fees for small entities are designed to provide some fee relief for qualifying small entity licensees while at the same time recovering from them some of the agency's costs for activities that benefit them. The costs not recovered from small entities for activities that benefit them must be recovered from other licensees. Given the reduction in annual fees from FY 2000 to FY 2005, on average, for those categories of materials licensees that contain a number of small entities, the NRC has determined that the current small entity fees of $500 and $2,300 continue to meet the objective of providing relief to many small entities while recovering from them some of the costs that benefit them.

Therefore, the NRC retained the $2,300 small entity annual fee and the $500 lower tier small entity annual fee for FY 2005, and is not changing these fees in FY 2006. The NRC plans to re-examine the small entity fees again in FY 2007.

IV. Summary

The NRC has determined that the 10 CFR part 171 annual fees significantly impact a substantial number of small entities. A maximum fee for small entities strikes a balance between the requirement to recover 90 percent of the NRC budget and the requirement to consider means of reducing the impact of the fee on small entities. Based on its regulatory flexibility analysis, the NRC concludes that a maximum annual fee of $2,300 for small entities and a lower-tier small entity annual fee of $500 for small businesses and not-for-profit organizations with gross annual receipts of less than $350,000, small governmental jurisdictions with a population of less than 20,000, small manufacturing entities that have less than 35 employees, and educational institutions that are not State or publicly supported and have less than 35 employees reduces the impact on small entities. At the same time, these reduced annual fees are consistent with the objectives of OBRA–90. Thus, the fees for small entities maintain a balance between the objectives of OBRA–90 and the RFA. Therefore, the analysis and conclusions previously established remain valid for FY 2006.

Attachment 1 to Appendix A—U.S. Nuclear Regulatory Commission

Small Entity Compliance Guide, Fiscal Year 2006

Contents

Introduction

The Congressional Review Act of 1996 (CRA) requires all Federal agencies to prepare a written guide for each ''major'' final rule, as defined by the Act. The NRC's fee rule, published annually to comply with the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), as amended, is considered a ''major'' rule under the CRA. Therefore, in compliance with the law, this guide has been prepared to assist NRC materials licensees in complying with the FY 2006 fee rule.

Licensees may use this guide to determine whether they qualify as a small entity under NRC regulations and are eligible to pay reduced FY 2006 annual fees assessed under 10 CFR part 171. The NRC has established two tiers of annual fees for those materials licensees who qualify as small entities under the NRC's size standards.

Licensees who meet the NRC's size standards for a small entity (listed in 10 CFR 2.810) must submit a completed NRC Form 526 ''Certification of Small Entity Status for the Purposes of Annual Fees Imposed Under 10 CFR Part 171'' to qualify for the reduced annual fee. This form can be accessed on the NRC's Web site at *http://www.nrc.gov.* The form can then be accessed by selecting ''License Fees'' and under ''Forms'' selecting NRC Form 526. For licensees who cannot access the NRC's Web site, NRC Form 526 may be obtained through the local point of contact listed in the NRC's ''Materials Annual Fee Billing Handbook,'' NUREG/BR–0238, which is enclosed with each annual fee billing. Alternatively, the form may be obtained by calling the fee staff at 301–415–7554, or by e-mailing the fee staff at *fees@nrc.gov.* The completed form, the appropriate small entity fee, and the payment copy of the invoice should be mailed to the

U.S. Nuclear Regulatory Commission, License Fee Team, at the address indicated on the invoice. Failure to file the NRC small entity certification Form 526 in a timely manner may result in the denial of any refund that might otherwise be due.

NRC Definition of Small Entity

For purposes of compliance with its regulations (10 CFR 2.810), the NRC has defined a small entity as follows:

(1) *Small business*—a for-profit concern that provides a service, or a concern that is not engaged in manufacturing, with average gross receipts of $5 million or less over its last 3 completed fiscal years;

(2) *Manufacturing industry*—a manufacturing concern with an average of 500 or fewer employees based on employment during each pay period for the preceding 12 calendar months;

(3) *Small organizations*—a not-for-profit organization that is independently owned and operated and has annual gross receipts of $5 million or less;

(4) *Small governmental jurisdiction*—a government of a city, county, town, township, village, school district or special district, with a population of less than 50,000;

(5) *Small educational institution*—an educational institution supported by a qualifying small governmental jurisdiction, or one that is not State or publicly supported and has 500 or fewer employees.[1]

To further assist licensees in determining if they qualify as a small entity, the following guidelines are provided, which are based on the Small Business Administration's regulations (13 CFR part 121).

(1) A small business concern is an independently owned and operated entity which is not considered dominant in its field of operations.

(2) The number of employees means the total number of employees in the parent company, any subsidiaries and/or affiliates, including both foreign and domestic locations (*i.e.*, not solely the number of employees working for the licensee or conducting NRC licensed activities for the company).

(3) Gross annual receipts includes all revenue received or accrued from any source, including receipts of the parent company, any subsidiaries and/or affiliates, and account for both foreign and domestic locations. Receipts include all revenues from sales of products and services, interest, rent, fees, and commissions, from whatever sources derived (*i.e.*, not solely receipts from NRC licensed activities).

(4) A licensee who is a subsidiary of a large entity does not qualify as a small entity.

NRC Small Entity Fees

In 10 CFR 171.16(c), the NRC has established two tiers of fees for licensees that qualify as a small entity under the NRC's size standards. The fees are as follows:

	Maximum annual fee per licensed category
Small business not engaged in manufacturing and small not-for-profit organizations (Gross Annual Receipts):	
$350,000 to $5 million	$2,300
Less than $350,000	500
Manufacturing entities that have an average of 500 employees or less:	
35 to 500 employees	2,300
Less than 35 employees	500
Small Governmental Jurisdictions (Including publicly supported educational institutions) (population):	
20,000 to 50,000	2,300
Less than 20,000	500
Educational institutions that are not State or publicly supported, and have 500 Employees or less:	
35 to 500 employees	2,300
Less than 35 employees	500

Instructions for Completing NRC Small Entity Form 526

(1) File a separate NRC Form 526 for each annual fee invoice received.

(2) Complete all items on NRC Form 526, as follows:

a. Enter the license number and invoice number exactly as they appear on the annual fee invoice.

b. Enter the Standard Industrial Classification (SIC) or North American Industry Classification System (NAICS) if known.

c. Enter the licensee's name and address as they appear on the invoice. Name and/or address changes for billing purposes must be annotated on the invoice. Correcting the name and/or address on NRC Form 526, or on the invoice does not constitute a request to amend the license. Any request to amend a license must be submitted to the respective licensing staff in the NRC's regional or headquarters offices.

d. Check the appropriate size standard for which the licensee qualifies as a small entity. Check only one box. Note the following:

(i) A licensee who is a subsidiary of a large entity does not qualify as a small entity.

(ii) The size standards apply to the licensee, including all parent companies and affiliates—not the individual authorized users listed in the license or the particular segment of the organization that uses licensed material.

(iii) Gross annual receipts means all revenue in whatever form received or accrued from whatever sources—not solely receipts from licensed activities. There are limited exceptions as set forth at 13 CFR 121.104. These are: the term receipts excludes net capital gains or losses; taxes collected for and remitted to a taxing authority (if included in gross or total income), proceeds from the transactions between a concern and its domestic or foreign affiliates (if also excluded from gross or total income on a consolidated return filed with the IRS); and amounts collected for another entity by a travel agent, real estate agent, advertising agent, or conference management service provider.

(iv) The owner of the entity, or an official empowered to act on behalf of the entity, must sign and date the small entity certification.

The NRC sends invoices to its licensees for the full annual fee, even though some licensees qualify for reduced fees as small entities. Licensees who qualify as small entities and file NRC Form 526, which certifies eligibility for small entity fees, may pay the reduced fee, which is either $2,300 or $500 for a full year, depending on the size of the entity, for each fee category shown on the invoice. Licensees granted a license during the first 6 months of the fiscal year, and licensees who file for termination or for a ''possession only'' license and permanently cease licensed activities during the first 6 months of the fiscal year, pay only 50 percent of the annual fee for that year. Such invoices state that the ''amount billed represents 50% proration.'' This means that the amount due from a small entity is not the prorated amount shown on the invoice, but rather one-half of the maximum annual fee shown on NRC Form 526 for the size standard under which the licensee qualifies, resulting in a fee of either $1,150 or $250 for each fee category billed (instead of the full small entity annual fee of $2,300 or $500).

Licensees must file a new small entity form (NRC Form 526) with the NRC each fiscal

[1] An educational institution referred to in the size standards is an entity whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public.

year to qualify for reduced fees in that year. Because a licensee's ''size,'' or the size standards, may change from year to year, the invoice reflects the full fee and licensees must complete and return form 526 for the fee to be reduced to the small entity fee amount. LICENSEES WILL NOT RECEIVE A NEW INVOICE FOR THE REDUCED AMOUNT. The completed NRC Form 526, the payment of the appropriate small entity fee, and the ''Payment Copy'' of the invoice should be mailed to the U. S. Nuclear Regulatory Commission, License Fee Team at the address indicated on the invoice.

If you have questions regarding the NRC's annual fees, please contact the license fee staff at 301–415–7554, e-mail the fee staff at *fees@nrc.gov,* or write to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Office of the Chief Financial Officer.

False certification of small entity status could result in civil sanctions being imposed by the NRC under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801 *et seq.* NRC's implementing regulations are found at 10 CFR part 13.

[FR Doc. 06–4815 Filed 5–26–06; 8:45 am]

BILLING CODE 7590–01–P

Federal Register

Tuesday,
May 30, 2006

Part III

Department of Labor

Office of the Secretary

29 CFR Part 70

Revision of the Department of Labor Freedom of Information Act Regulations and Implementation of Electronic Freedom of Information Act Amendments of 1996; Final Rule

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 70

RIN 1290–AA17

Revision of the Department of Labor Freedom of Information Act Regulations and Implementation of Electronic Freedom of Information Act Amendments of 1996

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of final rulemaking.

SUMMARY: This document sets forth final Department's procedural regulations under the Freedom of Information Act (FOIA). This final rule is not intended to change any rights under the FOIA. The final rule is intended as a routine updating of the Department's procedures, to streamline the existing procedures based on experience, to reflect certain changes in the procedural requirements of the FOIA since the current regulations were issued, and to make the Department's procedures easier for the public to understand.

DATES: *Effective Date*: This rule is effective on June 29, 2006.

FOR FURTHER INFORMATION CONTACT: Joseph J. Plick, Counsel for FOIA/FACA/Privacy Act, Division of Management and Administrative Legal Services, Room N–2428, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–5527.

SUPPLEMENTARY INFORMATION:

A. Background

On March 30, 2004, the Department of Labor published a proposed rule in the **Federal Register** revising the Department's procedural regulations under the Freedom of Information Act. These proposed revisions were not intended to change any rights under the FOIA. The proposed revisions were intended in part as a routine updating of the Department's procedures—to streamline the existing procedures based on experience, to reflect certain changes in the procedural requirements of the FOIA since the current regulations were issued, and to make the Department's procedures easier for the public to understand.

In addition, the proposed revisions added new provisions to explicitly implement the Electronic Freedom of Information Act Amendments of 1996 (Pub. L. 104–231). The Department has been operating in compliance with the amendments, and based on its experience is now updating the regulations to reflect these changes in the law. These new provisions implementing the amendments are found at § 70.4(d)(2) (electronic reading rooms); § 70.21(a) (format of disclosure); § 70.21(b)(3) (deletion marking and volume estimation); § 70.25 (timing of responses); and § 70.38(d) (electronic searches).

The final rule also updates the Department's fee schedule. Revisions of the Department's fee schedule can be found at § 70.40(d)(1) and (3). The duplication charge will remain the same at fifteen cents per page, while document search and review charges will increase to $5 and $10 per quarter hour for clerical and professional or supervisory time, respectively. The amount at or below which the Department will not charge a fee will increase from $5 to $15 at § 70.43(a). The final rule also clarifies the application of fees with respect to administrative appeals.

The final rule allows for the submission of e-mail FOIA requests and e-mail appeals to the Department. The final rule creates e-mail addresses where all FOIA e-mail requests and e-mail appeals must be directed. Requests submitted to any other e-mail address will not be accepted. § 70.19(b).

The Department presumes that since the E–FOIA amendments have been operative now for several years, most of those interested in commenting on the Department's implementation of those provisions will be familiar with the subject. However, those interested in consulting additional resources on any of the procedural requirements of the FOIA, and the E–FOIA amendments in particular, can readily find detailed information at the U.S. Department of Justice Web site. For example, a copy of the FOIA can be located at *http://www.usdoj.gov/04foia/foiastat.htm*; the current (May 2004) edition of the Department of Justice FOIA Reference Guide can be located at *http://www.usdoj.gov/oip/foi-act.htm*; and specific information about the E–FOIA amendments of 1996 can be located at *http://www.usdoj.gov/oip/foia_updates/Vol_XVII_4/page1.htm*.

B. Changes From the Proposal/Publication in Final

This final rule adds additional disclosure officers, deletes some disclosure officers, updates various mailing addresses for the disclosure officers, updates a title, and clarifies, at § 70.40(d)(2), that copying costs cover standard 8½ x 11 or 11 x 14 inch black and white copies. In addition, it expands § 70.21(b)(2) to state that the disclosure officer, when denying a request for records, should indicate deletions at the place in the record where the deletion is made. Section 70.22(c) is expanded to authorize the filing of appeals by e-mail at the designated e-mail address. Section 70.22(c) is expanded to authorize the filing of appeals by submitting an e-mail at the designated e-mail address. Finally, a minor citation error is corrected at § 70.40(b)(2).

C. Analysis of Comment Received

Comment Received

The Department received only one comment. The commenter wanted to know when the proposed rule would be made final.

Agency Response

This rule will become effective on June 29, 2006.

Regulatory Flexibility Act

The Deputy Secretary of Labor, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), has reviewed this final rule and has certified to the Chief Counsel for Advocacy of the Small Business Administration that it will not have a significant economic impact on a substantial number of small entities.

The Department of Labor makes a tremendous amount of public information readily available to small entities on its Web site pursuant to the FOIA and other public disclosure requirements, and is committed to expanding this resource to assist small businesses and other members of the public. In this regard, the Department, consistent with the E–FOIA amendments, now maintains an electronic reading room. This electronic reading room provides ready access to many materials of interest to small entities that were previously available only at selected physical sites around the country—*e.g.*, administrative staff manuals used by the Department. In addition, the Department makes ''hot FOIAs'' available to the public on this Web site pursuant to the requirements of the law. The Department has established a direct link on the Home page of its Web site *http://www.dol.gov/dol/foia/main.htm* to its FOIA resources. In addition to the information in the electronic reading room, a copy of the statute, the Department's procedural regulations, up-to-date information about DOL disclosure officers, links to Department of Justice resources, and a variety of other useful information can be found on this site.

Small entities, like any other individual or entity, may request information in the Department's files

that has not been generally made available to the public. One of the major purposes of revising the Department's FOIA regulations is to make it simpler for small entities and others to understand where and how to seek information from the Department, and to ensure that they receive disclosable information (and an appropriate explanation of why any information has been deemed non-disclosable) in a timely way. Like other requesters, small entities seeking information must in some cases pay fees. The FOIA establishes a fee structure to cover the direct costs of the government in searching for, reviewing, and duplicating requested records. The Department's final rule is fully consistent with these requirements. For example, consistent with the statute, the rule provides that no fees will be charged in specified circumstances, establishes uniform fees to cover the time expended by professional and clerical employees, and includes provisions for fee waivers. Moreover, in fully implementing the provisions of the E–FOIA Act, the final rule will ensure that small entities have the opportunity to obtain information in the format of their choice (including electronic formats) when it is feasible for the Department to produce the information in the requested manner.

Executive Order 12866

This rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. This Department and the Office of Management and Budget have determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, there is no requirement for an assessment of potential costs and benefits under section 6(a)(3) of that order, nor has the rule been reviewed by the Office of Management and Budget.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments or by the private sector, in the aggregate, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

Consistent with the Congressional Review Act, 5 U.S.C. 801, *et seq.*, the Department will submit to Congress and to the Comptroller General of the United States, a report regarding the issuance of this Final Rule prior to the effective date set forth at the outset of this document.

OMB has determined that this rule is not a ''major rule'' as defined by the Congressional Review Act (Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996). This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Federalism

The Department has reviewed this final rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The rule will not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Paperwork Reduction Act

The Department has reviewed the final rules with reference to the Paperwork Reduction Act and has concluded that they do not involve any ''collection of information'' within the requirements of the Act.

The rule would not require any person to fill out a form or otherwise provide specific information (other than self-identification and appropriate certifications) to the Department in order to make a FOIA request or administrative appeal for records. Pursuant to regulations of the Office of Management and Budget implementing the Paperwork Reduction Act, affidavits, oaths, affirmations, certifications, receipts, changes of address, consents or acknowledgments are not ''information collections'' under the law (5 CFR 1320.3(h)(1)).

Consistent with the FOIA, the final rule requires those seeking fee waivers to address certain specific requirements set forth by the law; and consistent with the law and Executive Order 12600, the final rules require submitters of information who wish to protect that information to address certain specific requirements toward that end.

List of Subjects in 29 CFR Part 70

Administrative practice and procedure, Freedom of Information.

■ For the reasons stated in the preamble, the Department of Labor revises 29 CFR Part 70 to read as follows:

PART 70—PRODUCTION OR DISCLOSURE OF INFORMATION OR MATERIALS

Subpart A—General

Subpart B—Procedures for Disclosure of Records Under the Freedom of Information Act

Subpart C—Costs for Production of Records

Subpart D—Public Records and Filings

Authority: 5 U.S.C. 301, 5 U.S.C. 552, as amended; Reorganization Plan No. 6 of 1950, 5 U.S.C. Appendix; E.O. 12600, 52 FR 23781, 3 CFR, 1988 Comp., p. 235.

Subpart A—General

§ 70.1 Purpose and scope.

This part contains the regulations of the Department of Labor implementing the Freedom of Information Act (FOIA), as amended, 5 U.S.C. 552 and Executive Order 12600. It also implements the public information provisions of the Labor-Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. 435, the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1026 (106), and the Federal Advisory

Committee Act (FACA), 5 U.S.C. app. 11. Subpart A contains general information about Department of Labor policies and procedures; subpart B sets forth the procedures for obtaining access to records of the Department; subpart C contains the Department's regulations on fees; and subpart D sets forth the procedures for obtaining access to certain public records. Appendix A contains a list of all Department of Labor disclosure officers from whom records may be obtained.

§ 70.2 Definitions.

As used in this part:

(a) The terms *agency*, *person*, *party*, *rule*, *order*, and *adjudication* have the meaning attributed to these terms by the definitions in 5 U.S.C. 551.

(b) *Component* means each separate bureau, office, board, division, commission, service or administration of the Department of Labor.

(c) *Disclosure officer* means an official of a component who has authority to disclose or withhold records under the FOIA and to whom requests to inspect or copy records in his/her custody should be addressed. Department of Labor disclosure officers are listed in Appendix A to this part.

(d) *The Secretary* means the Secretary of Labor.

(e) *The Department* means the Department of Labor.

(f) *Request* means any written request for records made pursuant to 5 U.S.C. 552(a)(3) and which meets the requirements of this Part.

(g) *Requester* means any person who makes a request.

(h) *Record* means information in any format, including electronic format.

(i) *Search* means to seek, manually or by automated means, Department records for the purpose of locating records in response to a request.

(j) *Business information* means commercial or financial information received or obtained by the Department from a submitter, directly or indirectly, that arguably may be protected from disclosure under Exemption 4 of the FOIA.

(k) *Submitter* means any person or entity from whom the Department receives or obtains commercial or financial information, directly or indirectly. The term submitter includes, but is not limited to corporations, labor organizations, non-profit organizations, and local, state, tribal and foreign governments.

§ 70.3 Policy.

All agency records, except those exempt from mandatory disclosure by one or more provisions of 5 U.S.C. 552(b), will be made promptly available to any person submitting a written request in accordance with the procedures of this part.

§ 70.4 Public reading rooms.

(a) To the extent required by 5 U.S.C. 552(a)(2), each component within the Department will make the materials listed in this section available for public inspection and copying (unless they are published and copies are offered for sale):

(1) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(2) Those statements of policy and interpretation which have been adopted by the agency and are not published in the **Federal Register**;

(3) Administrative staff manuals and instructions to staff that affect a member of the public except to the extent that such records or portions thereof are exempt from disclosure under section 552(b) of the FOIA; and

(4) Copies of all records, regardless of form or format, which have been released to any person under 5 U.S.C. 552(a)(3) and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records.

(5) A general index of the records referred to in paragraph (a) (4) of this section.

(b) Each component of the Department will maintain and make available, including through the Department's Internet/World Wide Web site [*http://www.dol.gov*], current indexes providing identifying information regarding any matter issued, adopted or promulgated after July 4, 1967, and required by paragraph (a) of this section to be made available or published. Each component will publish and make available for distribution copies of such indexes and their supplements at least quarterly, unless it determines by Notice published in the **Federal Register** that publication would be unnecessary and impracticable. After issuance of such Notice, the component will provide copies of any index upon request at a cost not to exceed the direct cost of duplication.

(c) A component may exclude information from records made available to the public pursuant to paragraphs (a)(1), (a)(2) and (a)(3) of this section where release of such information would constitute a clearly unwarranted invasion of privacy and may also exclude identifying details from records made available to the public pursuant to paragraph (a)(4) of this section when disclosure would be harmful to an interest protected by an exemption. When making a deletion for such purposes, the component will explain the reason for the deletion. Also, a component will describe the extent of the deletion and must, if technically feasible, identify the exact location where the deletion was made.

(d) Records described in this section are available for examination or copying without the submission of a formal FOIA request. All records covered by this section are available through public reading rooms, and, to the extent indicated in this paragraph, through the Department's Internet/World Wide Web site [*http://www.dol.gov*].

(1) Some components have public reading rooms only in Washington, DC, while other components provide reading rooms in area, district or regional offices throughout the United States. A disclosure officer in the appropriate component listed in Appendix A to this part should be contacted to find out where the public reading room is located. If the appropriate component is unknown, inquiries can be directed to the Office of the Solicitor, Division of Management and Administrative Legal Services, 200 Constitution Avenue, NW., Room N–2428, Washington, DC 20210. Fees for reproduction of records in public reading rooms are charged consistent with § 70.40.

(2) To the extent feasible, components are required to place copies of any records covered by this section and which were created on or after November 1, 1996 on the Internet/World Wide Web. In particular, when records are required to be made available to the public pursuant to the requirements of paragraph (a)(4) of this section, the component will also place on the Internet/World Wide Web, if technically feasible, any records that are released in the response to a FOIA decision. The Department's Internet home page may be searched to obtain these documents. The Department will make available to the public by electronic or other appropriate media any documents covered by this section that cannot be feasibly placed on the Internet/World Wide Web.

§ 70.5 Compilation of new records.

Nothing in 5 U.S.C. 552 or this part requires that any agency or component create a new record in order to respond to a request for records. A component must, however, make reasonable efforts to search for records that already exist in electronic form or format, except

when such efforts would significantly interfere with the operation of the component's automated information systems. The component will determine what constitutes a reasonable effort on a case-by-case basis.

§ 70.6 Disclosure of originals.

(a) No original record or file in the custody of the Department of Labor, or of any component or official thereof, will on any occasion be given to any agent, attorney, or other person not officially connected with the Department without the written consent of the Secretary, the Solicitor of Labor or the Inspector General.

(b) The individual authorizing the release of the original record or file must ensure that a copy of the document or file is retained in the component that had custody and/or control when an original document or file is released pursuant to this subpart.

§§ 70.7–70.18 [Reserved]

Subpart B—Procedures for Disclosure of Records Under the Freedom of Information Act

§ 70.19 Requests for records.

(a) *How to make a request.* Requests under this subpart for a record of the Department of Labor must be written and received by mail, delivery service/courier, facsimile or e-mail.

(b) *To whom to direct requests.* A request should be sent to the appropriate official/officer for the component that maintains the records at its proper address. The request as well as the envelope itself should be clearly marked ''Freedom of Information Act Request.'' If the request is made by e-mail, it must be sent to *foiarequest@dol.gov.* Requests submitted to any other e-mail address will not be accepted as a request made under this Part.

(1) The functions of each major Department of Labor component are summarized in the United States Government Manual which is issued annually. The manual is available in print from the Superintendent of Documents, Washington, DC 20402–9328, and electronically at the Government Printing Office's World Wide Web site, *http://www.access.gpo.gov/su_docs.* Appendix A of this part lists the disclosure officers of each component by title and address. This initial list has been included for information purposes only, and the disclosure officers may be changed through appropriate designation. Regional, district and field office addresses have been included in Appendix A to this part to assist requesters in identifying the disclosure officer who is most likely to have custody of the records sought.

(2) Requesters who cannot determine the proper disclosure officer to whom the request should be addressed may direct the request to the Office of the Solicitor, Division of Management and Administrative Legal Services, 200 Constitution Avenue, NW., Room N–2428, Washington, DC 20210 or by e-mail to *foiarequest@dol.gov.* Note, pursuant to § 70.25(a), the time for the component to respond to a request begins to run when the request is received by the proper disclosure officer.

(c) *Description of information requested.* Each request must reasonably describe the record or records sought. The descriptions must be sufficiently detailed to permit the identification and location of the requested records with a reasonable amount of effort. So far as practicable, the request should specify the subject of the record, the date or approximate date when made, the place where made, the person or office that created it, and any other pertinent identifying details.

(d) *Deficient descriptions.* If the description is insufficient, so that a knowledgeable employee who is familiar with the subject area of the request cannot locate the record with a reasonable amount of effort, the component processing the request should notify the requester and describe what additional information is needed to process the request. Every reasonable effort will be made to assist a requester in the identification and location of the record or records sought. Any amended request must be confirmed in writing and meet the requirements for a request under this Part.

(e) *Agreement to pay fees.* The filing of a request under this subpart will be deemed to constitute an agreement by the requester to pay all applicable fees charged under this part, up to $25.

§ 70.20 Responsibility for responding to requests.

(a) *In general.* Except as stated in paragraph (b) of this section, the disclosure officer who receives a request for a record and has possession of that record is the disclosure officer responsible for responding to the request. When it is determined that records responsive to a request may be located in multiple components of the Department, the Office of the Solicitor, Division of Management and Administrative Legal Services, will provide any necessary coordination of the Department's response. If the Office of the Solicitor deems a consolidated response appropriate, it will issue such a response on behalf of the Department.

(b) *Consultations and referrals.* When a disclosure officer receives a request for a record, the disclosure officer will determine whether another disclosure officer of the component, the Department, or of the Federal Government, is better able to determine whether the record can be disclosed or is exempt from disclosure under the FOIA. If the receiving disclosure officer determines that he or she is not best able to process the record, then the receiving disclosure officer will either:

(1) Respond to the request after consulting with the component or agency best able to determine whether to disclose it and with any other component or agency that has a substantial interest in it; or

(2) Refer the responsibility for responding to the request regarding that record to the component best able to determine whether to disclose it, or to another agency that originated the record (but only if that entity is subject to the FOIA). Ordinarily, the component or agency that originated the record will be presumed to be best able to determine whether to disclose it.

(c) *Notice of referral.* Whenever a disclosure officer refers all or any part of the responsibility for responding to a request to another component or agency, the disclosure officer will notify the requester of the referral and inform the requester of the name of each component or agency to which the request has been referred.

(d) *Classified records.* Any request for classified records which are in the custody of the Department of Labor will be referred to the classifying agency under paragraphs (b) and (c) of this section.

§ 70.21 Form and content of responses.

(a) *Form of notice granting a request.* (1) After a disclosure officer has made a determination to grant a request in whole or in part, the disclosure officer will notify the requester in writing. The notice will describe the manner in which the record will be disclosed. The disclosure officer will provide the record in the form or format requested if the record is readily reproducible in that form or format, provided the requester has agreed to pay and/or has paid any fees required by Subpart C of this part. The disclosure officer will determine on a case-by-case basis what constitutes a readily reproducible format. Each component should make reasonable efforts to maintain its records in commonly reproducible forms or formats.

(2) Alternatively, a disclosure officer may make a copy of the releasable portions of the record available to the requester for inspection at a reasonable time and place. The procedure for such an inspection will not unreasonably disrupt the operations of the component.

(b) *Form of notice denying a request.* A disclosure officer denying a request in whole or in part must notify the requester in writing. The notice must be signed by the disclosure officer and will include:

(1) The name and title or position of the disclosure officer.

(2) A brief statement of the reason or reasons for the denial, including the FOIA exemption or exemptions relied upon in denying the request. Deletions should be indicated at the place in the record where the deletion is made.

(3) An estimate of the volume of records of information withheld, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption.

(4) A statement that the denial may be appealed under § 70.22 and a description of the requirements of that section.

(c) *Record cannot be located or has been destroyed.* If a requested record cannot be located from the information supplied, or it is known or believed to have been destroyed or otherwise disposed of, the disclosure officer will so notify the requester in writing and this determination may be appealed as described in § 70.22.

(d) *Date for determining responsive records.* When responding to a request, a component will ordinarily include only those records existing as of the date the component begins its search for them. If any other date is used, the component will inform the requester of that date.

§ 70.22 Appeals from denial of requests.

(a) When a request for access to records has been denied in whole or in part; where a requester disputes a determination that records cannot be located or have been destroyed; where a requester disputes a determination by a disclosure officer concerning the assessment or waiver of fees; or when a component fails to respond to a request within the time limits set forth in the FOIA, the requester may appeal to the Solicitor of Labor. The appeal must be filed within 90 days of the date of the action being appealed.

(b) The appeal will state in writing the grounds for appeal, and it may include any supporting statements or arguments, but such statements are not required. In order to facilitate processing of the appeal, the appeal should include the appellant's mailing address and daytime telephone number, as well as copies of the initial request and the disclosure officer's response. The envelope and the letter of appeal should be clearly marked: ''Freedom of Information Act Appeal.'' Any amendment to the appeal must be in writing and received prior to a decision on the appeal.

(c) The appeal should be addressed to the Solicitor of Labor, Division of Management and Administrative Legal Services, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–2428, Washington, DC 20210. Appeals also may be submitted by e-mail to *foiaappeal@dol.gov*. Appeals submitted to any other e-mail address will not be accepted.

§ 70.23 Action on appeals.

The Solicitor of Labor, or designee, will review the appellant's appeal and make a determination *de novo* whether the action of the disclosure officer was proper and in accordance with the applicable law.

§ 70.24 Form and content of action on appeals.

The disposition of an appeal will be issued by the Solicitor of Labor or designee in writing. A decision affirming, in whole or in part, the decision below will include a brief statement of the reason or reasons for the affirmance, including the FOIA exemption or exemptions relied upon, and its relation to each record withheld, and a statement that judicial review of the denial is available in the United States District Court for the judicial district in which the requester resides or maintains his or her principal place of business, the judicial district in which the requested records are located, or the District of Columbia. If it is determined on appeal that a record should be disclosed, the record should be provided in accordance with the decision on appeal. If it is determined that records should be denied in whole or in part, the appeal determination will include an estimate of the volume of records or information withheld, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption.

§ 70.25 Time limits and order in which requests must be processed.

(a) *Time limits.* Components of the Department of Labor will comply with the time limits required by the FOIA for responding to and processing requests and appeals, unless there are exceptional circumstances within the meaning of 5 U.S.C. 552(a)(6)(C). A component will notify a requester whenever the component is unable to respond to or process the request or appeal within the time limits established by the FOIA.

(b) *Multitrack processing.* (1) A component may use two or more processing tracks by distinguishing between simple and more complex requests based on the amount of work and/or time needed to process the request, including through limits based on the number of pages involved. If a component does so, it will advise requesters in its slower track(s) of the limits of its faster track(s).

(2) A component using multitrack processing may provide requesters in its slower track(s) with an opportunity to limit the scope of their requests in order to qualify for faster processing within the specified limits of the component's faster track(s). A component doing so will contact the requester either by telephone or by letter, whichever is more efficient in each case.

(c) *Unusual circumstances.* (1) Where the statutory time limits for processing a request cannot be met because of ''unusual circumstances,'' as defined in the FOIA, and the component determines to extend the time limits on that basis, the component will as soon as practicable notify the requester in writing of the unusual circumstances and of the date by which processing of the request can be expected to be completed. Where the extension is for more than ten working days, the component will provide the requester with an opportunity either to modify the request so that it may be processed within the time limits or to arrange an alternative time period with the component for processing the request or a modified request.

(2) Where a component reasonably believes that multiple requests submitted by a requester, or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, they may be aggregated. Multiple requests involving unrelated matters will not be aggregated.

(d) *Expedited processing.* (1) Requests and appeals will be taken out of order and given expedited treatment

whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest in which there exists possible questions about the government's integrity which affect public confidence.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time. For a prompt determination, a request for expedited processing must be received by the proper component. Requests based on the categories in paragraphs (d)(1)(i), (ii), (iii), and (iv) of this section must be submitted to the component that maintains the records requested.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requester within the category in paragraph (d)(1)(ii) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requester within the category in paragraph (d)(1)(ii) of this section also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of administrative discretion.

(4) Within ten calendar days of its receipt of a request for expedited processing, the proper component will decide whether to grant it and will notify the requester of the decision. If a request for expedited treatment is granted, the request will be given priority and will be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

§ 70.26 Business information.

(a) *In general.* Confidential business information will be disclosed under the FOIA only in accordance with this section.

(b) *Designation of business information.* A submitter of business information will use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers to be protected from disclosure under Exemption 4. These designations will expire ten years after the date of the submission unless the submitter requests, and provides justification for, a longer designation period.

(c) *Notice to submitters.* A component will provide a submitter with prompt written notice of a FOIA request that seeks its business information whenever required under paragraph (d) of this section, except as provided in paragraph (g) of this section, in order to give the submitter an opportunity to object in writing to disclosure of any specified portion of that information under paragraph (e) of this section. The notice will either describe the business information requested or include copies of the requested records or record portions containing the information. When notification to a voluminous number of submitters is required, notification may be made by posting or publishing notice reasonably likely to accomplish such notification.

(d) *When notice is required.* Notice will be given to a submitter whenever:

(1) The information requested under the FOIA has been designated in good faith by the submitter as information considered protected from disclosure under Exemption 4; or

(2) A component has reason to believe that the information requested under the FOIA may be protected from disclosure under Exemption 4.

(e) *Opportunity to object to disclosure.* A component will allow a submitter a reasonable time to respond to the notice described in paragraph (c) of this section. If a submitter has any objection to disclosure, it is required to submit a detailed written statement. The statement must show why the information is a trade secret or commercial or financial information that is privileged or confidential. In the event that a submitter fails to respond to the notice within the time specified, the submitter will be considered to have no objection to disclosure of the information. Information provided by a submitter under this paragraph may itself be subject to disclosure under the FOIA.

(f) *Notice of intent to disclose.* A component will consider a submitter's timely objections and specific grounds for non-disclosure in deciding whether to disclose business information. Whenever a disclosure officer decides to disclose business information over the objection of a submitter, the component will give the submitter written notice, which will include:

(1) A statement of the reason(s) why each of the submitter's disclosure objections was not sustained;

(2) A description of the business information to be disclosed; and

(3) A specified disclosure date, which will be a reasonable time subsequent to the notice.

(g) *Exceptions to notice requirements.* The notice requirements of paragraphs (c) and (f) of this section will not apply if:

(1) The disclosure officer determines that the information should not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600 (3 CFR 1988 Comp., p. 235); or

(4) The designation made by the submitter under paragraph (b) of this section appears obviously frivolous or such a designation would be unsupportable—except that, in such a case, the component will, within a reasonable time prior to a specified disclosure date, give the submitter written notice of any final decision to disclose the information.

(h) *Notice of a FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of business information, the component will promptly notify the submitter.

(i) *Corresponding notice to requesters.* Whenever a component provides a submitter with notice and an opportunity to object to disclosure under paragraphs (d) and (e) of this section, the component will also notify the requester(s). Whenever a component notifies a submitter of its intent to disclose requested information under paragraph (f) of this section, the component will also notify the requester(s). Whenever a submitter files a lawsuit seeking to prevent the disclosure of business information, the component will notify the requester(s).

(j) *Notice requirements.* The component will fulfill the notice requirements of this section by addressing the notice to the business submitter or its legal successor at the address indicated on the records, or the last known address. If the notice is returned, the component will make a reasonable effort to locate the business

submitter or its legal successor. Where notification of a voluminous number of submitters is required, such notification may be accomplished by posting and publishing the notice in a place reasonably calculated to accomplish notification.

§ 70.27 Preservation of records.

Each component will preserve all correspondence relating to the requests it receives under this part, and all records processed pursuant to such requests, until disposition or destruction of such correspondence and records is authorized by Title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Under no circumstances will records be destroyed while they are the subject of a pending request, appeal, or lawsuit under the Act.

§ 70.28–70.37 [Reserved]

Subpart C—Costs for Production of Records

§ 70.38 Definitions.

The following definitions apply to this subpart:

(a) *Request*, in this subpart, includes any request, as defined by § 70.2(f), as well as any appeal filed in accordance with § 70.22.

(b) *Direct costs* means those expenditures which a component actually incurs in searching for and duplicating (and in the case of commercial use requests, reviewing) records to respond to a FOIA request. Direct costs include, for example, the salary of the Federal employee performing work (the basic rate of pay for the Federal employee plus 16 percent of that rate to cover benefits) and the cost of operating duplication machinery. Not included in direct costs are overhead expenses such as costs of space, heating or lighting the facility in which the records are kept.

(c) *Reproduction* means the process of making a copy of a record necessary to respond to a request. Such copy can take the form of paper, microform, audio-visual materials or electronic records (*e.g.*, magnetic tape or disk).

(d) *Search* means the process of looking for and retrieving records or information that is responsive to a FOIA request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. Disclosure officers will ensure that searches are done in the most efficient and least expensive manner reasonably possible. A search does not include the review of material, as defined in paragraph (e) of this section, which is performed to determine whether material is exempt from disclosure.

(e) *Review* means the process of examining records, including audio-visual, electronic mail, etc., located in response to a request to determine whether any portion of the located record is exempt from disclosure, and accordingly may be withheld. It also includes the act of preparing materials for disclosure, *i.e.*, doing all that is necessary to excise them and otherwise prepare them for release. Review time includes time spent contacting any submitter, and considering and responding to any objections to disclosure made by a submitter under § 70.26, but does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(f) *Commercial use request* means a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade or profit interests, which can include furthering those interests through litigation. Components will determine, whenever reasonably possible, the use to which a requester will put the requested records. When it appears that the requester will put the records to a commercial use, either because of the nature of the request itself or because a component has reasonable cause to doubt a requester's stated use, the component will provide the requester a reasonable opportunity to submit further clarification.

(g) *Educational institution* means an institution which:

(1) Is a preschool, public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education, and

(2) Operates a program or programs of scholarly research. To qualify under this definition, the program of scholarly research in connection with which the information is sought must be carried out under the auspices of the academic institution itself as opposed to the individual scholarly pursuits of persons affiliated with an institution. For example, a request from a professor to assist him or her in writing of a book, independent of his or her institutional responsibilities, would not qualify under this definition, whereas a request predicated upon research funding granted to the institution would meet its requirements. A request from a student enrolled in an individual course of study at an educational institution would not qualify as a request from the institution.

(h) *Non-commercial scientific institution* means an institution that is not operated on a commercial basis and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(i) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public.

(1) Factors indicating such representation status include press accreditation, guild membership, a history of continuing publication, business registration, and/or Federal Communication Commission licensing, among others.

(2) For purposes of this definition, news contemplates information that is about current events or that would be of current interest to the public.

(3) A freelance journalist will be treated as a representative of the news media if the person can demonstrate a solid basis for expecting publication of matters related to the requested information through a qualifying news media entity. A publication contract with a qualifying news media entity satisfies this requirement. An individual's past publication record with such organizations is also relevant in making this determination. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals including newsletters (but only in those instances where they can qualify as disseminators of news) who make their products available for purchase or subscription by the general public.

§ 70.39 Statutes specifically providing for setting of fees.

This subpart will not apply to fees charged under any statute, other than the FOIA, that specifically requires an agency to set and collect fees for particular types of records.

§ 70.40 Charges assessed for the production of records.

(a) *General.* There are three types of charges assessed in connection with the production of records in response to a request, charges for costs associated with:

(1) Searching for or locating responsive records (search costs),

(2) Reproducing such records (reproduction costs), and

(3) Reviewing records to determine whether any materials are exempt (review costs).

(b)(1) There are four types of requesters:

(i) Commercial use requesters,

(ii) Educational and non-commercial scientific institutions,

(iii) Representatives of the news media, and

(iv) All other requesters.

(2) Depending upon the type of requester, as set forth in paragraph (b)(1) of this section, the charges outlined in paragraph (c) of this section may be assessed.

(c) *Types of charges that will be assessed for each type of request.* (1) *Commercial use request.* When a requester makes a commercial use request, search costs, reproduction costs and review costs will be assessed in their entirety.

(2) *Educational or non-commercial scientific institution request.* When an educational or non-commercial scientific institution makes a request, only reproduction costs will be assessed, excluding charges for the first 100 pages.

(3) *Request by representative of news media.* When a representative of the news media makes a request, only reproduction costs will be assessed, excluding charges for the first 100 pages.

(4) *All other requests.* Requesters making a request which does not fall within paragraphs (c)(1), (2), or (3) of this section will be charged search costs and reproduction costs, except that the first 100 pages of reproduction and the first two hours of search time will be furnished without charge. Where computer searches are involved, the monetary equivalent of two hours of search time by a professional employee will be deducted from the total cost of computer processing time.

(d) *Charges for each type of activity.* (1) *Search costs.* (i) When a search for records is performed by a clerical employee, a rate of $5.00 per quarter hour will be applicable. When a search is performed by professional or supervisory personnel, a rate of $10.00 per quarter hour will be applicable. Components will charge for time spent searching even if they do not locate any responsive records or they withhold the records located as exempt from disclosure.

(ii) For computer searches of records, requesters will be charged the direct costs of conducting the search, except as provided in paragraph (c)(4) of this section.

(iii) If the search for requested records requires transportation of the searcher to the location of the records or transportation of the records to the searcher, all transportation costs in excess of $5.00 may be added to the search cost.

(2) *Reproduction costs.* The standard copying charge for records in black and white paper copy is $0.15 per page. This charge includes the operator's time to duplicate the record. When responsive information is provided in a format other than 8½ x 11 or 11 x 14 inch black and white paper copy, such as computer tapes, disks and color copies, the requester may be charged the direct costs of the tape, disk, audio-visual or whatever medium is used to produce the information, as well as the direct cost of reproduction, including operator time. The disclosure officer may request that if a medium is requested other than paper, the medium will be provided by the requester.

(3) *Review costs.* Costs associated with the review of records, as defined in ''70.38(e), will be charged for work performed by a clerical employee at a rate of $5.00 per quarter hour when applicable. When professional or supervisory personnel perform work, a rate of $10.00 per quarter hour will be charged, when applicable. Except as noted in this paragraph, charges may only be assessed for review the first time the records are analyzed to determine the applicability of specific exemptions to the particular record or portion of the record. Thus a requester would not be charged for review at the administrative appeal level with regard to the applicability of an exemption already applied at the initial level. When, however, a record has been withheld pursuant to an exemption which is subsequently determined not to apply and is reviewed again at the appellate level to determine the potential applicability of other exemptions, the costs attendant to such additional review will be assessed.

(4) *Mailing cost.* Where requests for copies are sent by mail, no postage charge will be made for transmitting by regular mail a single copy of the requested record to the requester, or for mailing additional copies where the total postage cost does not exceed $5.00. However, where the volume of paper copy or method of transmittal requested is such that transmittal charges to the Department are in excess of $5.00, the transmittal costs will be added.

(e) *Aggregating requests for purposes of assessing costs.* (1) Where a disclosure officer reasonably believes that a requester or a group of requesters acting together is attempting to divide a request into a series of requests for the purpose of avoiding fees, the disclosure officer may aggregate those requests and charge accordingly.

(2) Disclosure officers may presume that multiple requests of this type made within a 30-day period have been submitted in order to avoid fees. Where requests are separated by a longer period, disclosure officers will aggregate them only where a solid basis exists for determining that aggregation is warranted under all of the circumstances involved. Multiple requests involving unrelated matters will not be aggregated.

(f) *Interest charges.* Disclosure officers will assess interest on an unpaid bill starting on the 31st day following the date of billing the requester. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the date of the billing until payment is received by the component. Components will follow the provisions of the Debt Collection Act of 1982, (Pub. L. 97–365, 96 Stat. 1749), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset.

(g) *Authentication of copies.* (1) *Fees.* The FOIA does not require certification or attestation under seal of copies of records provided in accordance with its provisions. Pursuant to provisions of the general user-charger statute, 31 U.S.C. 9701 and Subchapter II of title 29 U.S.C., the following charges will be made when, upon request, such services are nevertheless rendered by the agency in its discretion:

(i) For certification of true copies, $10.00 each certification.

(ii) For attestation under the seal of the Department, $10.00 each attestation under seal.

(2) *Authority and form for attestation under seal.* Authority is hereby given to any officer or officers of the Department of Labor designated as authentication officer or officers of the Department to sign and issue attestations under the seal of the Department of Labor.

(h) *Transcripts.* Fees for transcripts of an agency proceeding will be assessed in accordance with the provisions of this Subpart.

(i) *Privacy Act requesters.* A request from an individual or on behalf of an individual for a record maintained by that individual's name or other unique identifier which is contained within a component's system of records will be treated under the fee provisions at 29 CFR 71.6.

§ 70.41 Reduction or waiver of fees.

(a) *Requirements for waiver or reduction of fees.* (1) Records responsive to a request will be furnished without charge or at a charge reduced below that established under paragraph (d) of § 70.40 where a Disclosure Officer

determines, based on all available information, that the requester has demonstrated that:

(i) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and

(ii) Disclosure of the information is not primarily in the commercial interest of the requester.

(2) To determine whether the requirement of paragraph (a)(1)(i) of this section is met, components will consider the following factors:

(i) The subject of the request: Whether the subject of the requested records concerns ''the operations or activities of the government.'' The subject of the requested records must concern identifiable operations or activities of the federal government, with a connection that is direct and clear, not remote or attenuated.

(ii) The informative value of the information to be disclosed: Whether the disclosure is ''likely to contribute'' to an understanding of government operations or activities. The disclosable portions of the requested records must be meaningfully informative about government operations or activities in order to be ''likely to contribute'' to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, would not be as likely to contribute to such understanding where nothing new would be added to the public's understanding.

(iii) The contribution to an understanding of the subject by the public likely to result from disclosure: Whether disclosure of the requested information will contribute to ''public understanding.'' The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public will be considered. It will be presumed that a representative of the news media will satisfy this consideration.

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute ''significantly'' to public understanding of government operations or activities. The public's understanding of the subject in question must be enhanced by the disclosure to a significant extent.

(3) To determine whether the requirement of paragraph (a)(1)(ii) of this section is met, components will consider the following factors:

(i) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure. The Disclosure Officer will consider any commercial interest of the requester (with reference to the definition of ''commercial use request'' in § 70.38(f)), or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters will be given an opportunity in the administrative process to provide explanatory information regarding this consideration.

(ii) The primary interest in disclosure: Whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is ''primarily in the commercial interest of the requester.'' A fee waiver or reduction is justified where the public interest standard is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. The Disclosure Officer ordinarily will presume that where a news media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(4) Where only some of the records to be released satisfy the requirements for a waiver of fees, a waiver will be granted only for those records.

(5) Requests for the waiver or reduction of fees should address the factors listed in paragraph (a) of this section, insofar as they apply to each request.

(b) *Submission.* Requests for waiver or reduction of fees must be submitted along with the request or before processing of the request has been commenced.

(c) *Appeal rights.* The procedures for appeal under 70.22 and 70.23 will control.

§ 70.42 Consent to Pay Fees.

(a) The filing of a request under this subpart will be deemed to constitute an agreement by the requester to pay all applicable fees charged under this part up to and including $25.00, unless the requester seeks a waiver of fees. When making a request, the requester may specify a willingness to pay a greater or lesser amount.

(b) No request will be processed if a disclosure officer reasonably believes that the fees are likely to exceed the amount to which the requester has originally consented, absent supplemental written consent by the requester to proceed after being notified of this determination.

(c) When the estimated costs are likely to exceed the amount of fees to which the requester has consented, the requester must be notified. Such notice may invite the requester to reformulate the request to satisfy his or her needs at a lower cost.

§ 70.43 Payment of fees.

(a) *De minimis costs.* Where the cost of collecting and processing a fee to be assessed to a requester exceeds the amount of the fee which would otherwise be assessed, no fee need be charged. Fees which do not exceed $15.00 usually need not be collected.

(b) *How payment will be made.* Requesters will pay fees by check or money order made payable to the Treasury of the United States.

(c) *Advance payments and billing.* (1) Prior to beginning to process a request, the disclosure officer will make a preliminary assessment of the amount that can properly be charged to the requester for search and review time and copying costs. Where a disclosure officer determines or estimates that a total fee to be charged under this section will be more than $250.00, the disclosure officer will require the requester to make an advance payment of an amount up to the entire anticipated fee before beginning to process the request. The disclosure officer may waive the advance payment where the disclosure officer receives a satisfactory assurance of full payment from a requester who has a history of prompt payment of an amount similar to the one anticipated by the request.

(2) Where a requester has previously failed to pay a properly charged FOIA fee to any component of the Department of Labor within 30 days of the date of billing, a disclosure officer will require the requester to pay the full amount due, plus any applicable interest as provided in § 70.40(f) and to make an advance payment of the full amount of any anticipated fee, before the disclosure officer begins to process a new request or appeal or continues to process a pending request or appeal from that requester.

(3) For a request other than those described in paragraphs (c) (1) and (2) of this section, a disclosure officer will not require the requester to make an

advance payment before beginning to process a request. Payment owed for work already completed on a request pursuant to consent of the requester is not an advance payment and a disclosure officer may require the requester to make a payment for such work prior to releasing any records to the requester.

(d) *Time limits to respond extended when advance payments are requested.* When a component has requested an advance payment of fees in accordance with paragraph (c) of this section, the time limits prescribed in § 70.25 will only begin to run after the component has received the advance payment.

§ 70.44 Other rights and services.

Nothing in this subpart will be construed to entitle any person, as of right, to any service or to the disclosure of any records to which such person is not entitled under the FOIA.

§ 70.45–70.52 [Reserved]

Subpart D—Public Records and Filings

§ 70.53 Office of Labor-Management Standards.

(a) The following documents in the custody of the Office of Labor-Management Standards are public information available for inspection and/or purchase of copies in accordance with paragraphs (b) and (c) of this section.

(1) Data and information contained in any report or other document filed pursuant to sections 201, 202, 203, 211, 301 of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 524–28, 530, 79 Stat. 888, 73 Stat. 530, 29 U.S.C. 431–433, 441, 461).

(2) Data and information contained in any report or other document filed pursuant to the reporting requirements of 29 CFR part 458, which are the regulations implementing the standards of conduct provisions of the Civil Service Reform Act of 1978, 5 U.S.C. 7120, and the Foreign Service Act of 1980, 22 U.S.C. 4117. The reporting requirements are found in 29 CFR 458.3.

(3) Data and information contained in any report or other document filed pursuant to the Congressional Accountability Act of 1995, 2 U.S.C. 1351, 109 Stat. 19.

(b) The documents listed in paragraph (a) of this section are available from: U.S. Department of Labor, Office of Labor-Management Standards, Public Disclosure Room, N–5608, 200 Constitution Avenue, NW., Washington, DC 20210. Reports filed pursuant to section 201 of the Labor-Management Reporting and Disclosure Act of 1959 and pursuant to 29 CFR 458.3 implementing the Civil Service Reform Act of 1978 and the Foreign Service Act of 1980 for the year 2000 and thereafter are also available at *http://www.union-reports.dol.gov.*

(c) Pursuant to 29 U.S.C. 435(c) which provides that the Secretary will by regulation provide for the furnishing of copies of the documents listed in paragraph (a) of this section, upon payment of a charge based upon the cost of the service, these documents are available at a cost of $ .15 per page for record copies furnished. Authentication of copies is available in accordance with the fee schedule established in § 70.40. In accordance with 5 U.S.C. 552(a)(4)(A)(vi), the provisions for fees, fee waivers and fee reductions in subpart C of this part do not supersede these charges for these documents.

(d) Upon request of the Governor of a State for copies of any reports or documents filed pursuant to sections 201, 202, 203, or 211 of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 524–528, 79 Stat. 888; 29 U.S.C. 431–433, 441), or for information contained therein, which have been filed by any person whose principal place of business or headquarters is in such State, the Office of Labor-Management Standards will:

(1) Make available without payment of a charge to the State agency designated by law or by such Governor, such requested copies of information and data, or

(2) Require the person who filed such reports and documents to furnish such copies or information and data directly to the State agency thus designated.

§ 70.54 Employee Benefits Security Administration.

(a) The annual financial reports (Form 5500) and attachments/schedules as filed by employee benefit plans under the Employee Retirement Income Security Act (ERISA) are in the custody of the Employee Benefits Security Administration (EBSA) at the address indicated in paragraph (b) of this section, and the right to inspect and copy such reports, as authorized under ERISA, at the fees set forth in this part, may be exercised at such office.

(b) The mailing address for the documents described in this section is: U.S. Department of Labor, Employee Benefits Security Administration, Public Documents Room, 200 Constitution Avenue, NW., Washington, DC 20210.

Appendix A to Part 70—Disclosure Officers

(a) Offices in Washington, DC, are maintained by the following agencies of the Department of Labor. Field offices are maintained by some of these, as listed in the United States Government Manual.

The heads of the following agencies will make available for inspection and copying in accordance with the provisions of this part, records in their custody or in the custody of component units within their organizations, either directly or through their authorized representative in particular offices and locations.

(1) Office of the Secretary of Labor
(2) Office of the Solicitor of Labor
(3) Office of Administrative Law Judges
(4) Office of the Assistant Secretary for Administration and Management
(5) Office of the Assistant Secretary for Congressional and Intergovernmental Affairs
(6) Office of the Inspector General
(7) Office of the Assistant Secretary for Policy
(8) Office of the Assistant Secretary for Public Affairs
(9) Bureau of International Labor Affairs
(10) Bureau of Labor Statistics
(11) Office of the Assistant Secretary for Employment Standards Administration
(12) Office of the Assistant Secretary for Employment and Training Administration
(13) Office of the Assistant Secretary for Mine Safety and Health Administration
(14) Office of the Assistant Secretary for Occupational Safety and Health Administration
(15) Office of the Assistant Secretary for Employee Benefits Security Administration
(16) Office of the Assistant Secretary for Veterans' Employment and Training Service
(17) Office of the Associate Deputy Secretary for Adjudication
(18) Women's Bureau
(19) Employees' Compensation Appeals Board
(20) Administrative Review Board
(21) Benefits Review Board
(22) Office of the Assistant Secretary for Disability Employment Policy

(b)(1) The titles of the responsible officials of the various independent agencies in the Department of Labor are listed below. This list is provided for information and to assist requesters in locating the office most likely to have responsive records. The officials may be changed by appropriate designation. Unless otherwise specified, the mailing addresses of the officials will be: U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

1. Secretary of Labor, *Attention:* Assistant Secretary for Administration and Management (OASAM)
2. Deputy Solicitor, Office of the Solicitor (SOL)
3. Chief Administrative Law Judge, Office of Administrative Law Judges (OALJ)
4. Legal Counsel, OALJ
5. Assistant Secretary for Administration and Management (OASAM)
6. Deputy Assistant Secretary for Administration and Management, OASAM
7. Deputy Assistant Secretary for Security and Emergency Management, OASAM
8. Director, Business Operations Center, OASAM

9. Director, Procurement Service Center, OASAM
10. Director, Civil Rights Center, OASAM
11. Director, Human Resources Center, OASAM
12. Director, Information Technology Center, OASAM
13. Director, Human Resource Services Center, OASAM
14. Director, Departmental Budget Center, OASAM
15. Director, Center for Program Planning and Results, OASAM
16. Chief Financial Officer, Office of the Chief Financial Officer (CFO)
17. Administrative Officer, CFO
18. Director, Office of Small Business Programs (OSBP)
19. Chief Administrative Appeals Judge, Employees' Compensation Appeals Board (ECAB)
20. Chief Administrative Appeals Judge, Administrative Review Board (ARB)
21. Chief Administrative Appeals Judge, Benefits Review Board (BRB)
22. Director, Women's Bureau (WB)
23. National Office Coordinator, WB
24. Assistant Secretary, Office of Congressional and Intergovernmental Affairs (OCIA)
25. Deputy Assistant Secretary, OCIA
26. Assistant Secretary for Policy (ASP)
27. Deputy Assistant Secretary, ASP
28. Assistant Secretary, Office of Public Affairs (OPA)
29. Deputy Assistant Secretary, OPA
30. Director, Office of Administrative Review Board (ARB)
31. Disclosure Officer, Office of the Inspector General (OIG)
32. Deputy Under Secretary, Bureau of International Labor Affairs (ILAB)
33. Secretary of the National Administrative Office, ILAB
34. Deputy Assistant Secretary, Office of Disability Policy (ODEP)
35. Special Assistant to the Deputy Assistant Secretary, ODEP
36. Director, Office of Job Corps
37. Ombudsman under Part E of the Energy Employees Occupational Illness Compensation Program Act

Employment Standards Administration

1. Assistant Secretary for Employment Standards, Employment Standards Administration (ESA)
2. Director, Equal Employment Opportunity Unit, ESA
3. Director, Office of Management, Administration and Planning (OMAP), ESA
4. Director, Office of Workers' Compensation Programs (OWCP), ESA
5. Director, Division of Planning, Policy and Standards, OWCP, ESA
6. Director for Federal Employees' Compensation, OWCP, ESA
7. Director for Longshore and Harbor Workers' Compensation, OWCP, ESA
8. Director for Coal Mine Workers' Compensation, OWCP, ESA
9. Director for Energy Employment Occupational Illness Compensation Program, OWCP, ESA
10. Administrator, Wage and Hour Division, ESA
11. Deputy Administrator for Policy, Wage and Hour Division, ESA
12. Deputy Administrator for Operations, Wage and Hour Division, ESA
13. Senior Policy Advisor, Wage and Hour Division, ESA
14. Director, Office of Enforcement Policy, Wage and Hour Division, ESA
15. Deputy Director, Office of Enforcement Policy, Wage and Hour Division, ESA
16. Chief, Branch of Service Contracts Wage Determination, Wage and Hour Division, ESA
17. Chief, Branch of Davis-Bacon Wage Determination, Wage and Hour Division, ESA
18. Director, Office of Planning and Analysis, Wage and Hour Division, ESA
19. Director, Office of Wage Determinations, Wage and Hour Division, ESA
20. Director, Office of External Affairs, Wage and Hour Division, ESA
21. Deputy Director, Office of External Affairs, Wage and Hour Division, ESA
22. Deputy Assistant Secretary for Federal Contract Compliance Programs (OFCCP), ESA
23. Director, Division of Policy, Planning and Program Development, OFCCP, ESA
24. Deputy Director, Division of Policy, Planning and Program Development, OFCCP, ESA
25. Director, Division of Program Operations, OFCCP, ESA
26. Deputy Director, Division of Program Operations, OFCCP, ESA
27. Director, Division of Management and Administrative Programs, OFCCP, ESA
28. Deputy Assistant Secretary for Labor-Management Programs (OLMS), ESA

Employment and Training Administration

1. Assistant Secretary of Labor, Employment and Training Administration (ETA)
2. Administrator, Business Relations Group, ETA
3. Administrator, Office of Policy Development, Evaluation and Research, ETA
4. Director, Office of Equal Employment Opportunity, ETA
5. Director, Office of Outreach, ETA
6. Deputy Assistant Secretary of Labor, Employment and Training Administration, ETA
7. Administrator, Office of Financial and Administrative Management, ETA
8. Director, Office of Financial and Administrative Services, ETA
9. Director, Office of Grants and Contracts Management, ETA
10. Chief, Division of Federal Assistance, ETA
11. Chief, Division of Contract Services, ETA
12. Director, Office of Human Resources, ETA
13. Administrator, Office of Performance and Results, ETA
14. Administrator, Office of Regional Operations, ETA
15. Administrator, Office of Technology, ETA
16. Administrator, Office of National Programs, ETA
17. Chief, Division of Foreign Labor Certification, ETA
18. Administrator, Office of Apprenticeship Training, Employer and Labor Services, ETA
19. Administrator, Office of Workforce Investment, ETA
20. Director, Office of Adult Services, ETA
21. Director, Office of Youth Services, ETA
22. Administrator, Office of Workforce Security, ETA
23. Deputy Director, Office of Workforce Security, ETA
24. Administrator, Office of National Response, ETA
25. Director, Division of Trade Adjustment Assistance, ETA

Occupational Safety and Health Administration

1. Assistant Secretary, Occupational Safety and Health Administration (OSHA)
2. Director, Office of Communications, OSHA
3. Director, Office of Equal Employment Opportunity, OSHA
4. Director, Directorate of Construction, OSHA
5. Director, Directorate of Cooperative and State Programs, OSHA
6. Director, Directorate of Evaluation and Analysis, OSHA
7. Director, Directorate of Administrative Programs, OSHA
8. Director, Directorate of Information Technology, OSHA
9. Director, Directorate of Enforcement Programs, OSHA
10. Director, Directorate of Science, Technology and Medicine, OSHA
11. Director, Directorate of Standards and Guidance, OSHA

Employee Benefits Security Administration

Director, Office of Participant Assistance & Communications, Employee Benefits Security Administration (EBSA)

Veterans' Employment and Training Service

1. Assistant Secretary for Veterans' Employment and Training (VETS)
2. Deputy Assistant Secretary for Veterans' Employment and Training, VETS
3. Director, Office of Operations and Programs, VETS

Bureau of Labor Statistics

1. Commissioner, Bureau of Labor Statistics (BLS)
2. Associate Commissioner, Office of Administration, BLS

The mailing address for responsible officials in the Bureau of Labor Statistics is: Room 4040—Postal Square Building, 2 Massachusetts Avenue, NE., Washington, DC 20212.

Mine Safety and Health Administration

The mailing address for all requests directed to the Mine Safety and Health Administration (MSHA) is: 1100 Wilson Boulevard, 21st Floor, Arlington, Virginia 22209.

1. Assistant Secretary, MSHA
2. Deputy Assistant Secretary, MSHA
3. Director, Office of Program Education and Outreach, MSHA
4. Director of Administration and Management, MSHA

5. Administrator, Coal Mine Safety and Health (CMS&H), MSHA
6. Chief, Health Division, CMS&H, MSHA
7. Chief, Safety Division, CMS&H, MSHA
8. Accident Investigation Program Manager, CMS&H, MSHA
9. Administrator, Metal and Nonmetal Mine Safety and Health (M/NM), MSHA
10. Chief, Health Division, M/NM, MSHA
11. Chief, Safety Division, M/NM, MSHA
12. Accident Investigation Program Manager, M/NM, MSHA
13. Director of Assessments, MSHA
14. Director of Technical Support, MSHA
15. Director of Educational Policy and Development, MSHA
16. Director of Standards, Regulations, and Variances, MSHA
17. Director of Program Evaluation and Information Resources, MSHA

Office of Administrative Law Judges

The mailing address for the Office of Administrative Law Judges is: Office of Administrative Law Judges, 800 K Street, NW., Suite N–400, Washington, DC 20001.

Regional Offices

(2) The titles of the responsible officials in the regional offices of the various independent agencies are listed below: Unless otherwise specified, the mailing address for these officials by region, will be:

Region I

U.S. Department of Labor
John F. Kennedy Federal Building
Boston, Massachusetts 02203
(For Wage and Hour only: Contact Region III)

Region II

201 Varick Street
New York, New York 10014
(For Wage and Hour only: Contact Region III)

Region III

The Curtis Center
170 South Independence Mall West
Suite 825 East
Philadelphia, Pennsylvania 19106

Region IV

U.S. Department of Labor
Atlanta Federal Center
61 Forsyth Street, SW.,
Atlanta, Georgia 30303

214 N. Hogan Street, Suite 1006
Jacksonville, Florida 32202
(OWCP only)

Region V

Kluczynski Federal Building
230 South Dearborn Street
Chicago, Illinois 60604

1240 East Ninth Street, Room 851
Cleveland, Ohio 44199
(FECA only)

Region VI

525 Griffin Square Building
Griffin & Young Streets
Dallas, Texas 75202

Region VII

City Center Square Building
1100 Main Street
Kansas City, Missouri 64105
(For Wage and Hour only: Contact Region V)

801 Walnut Street, Room 200
Kansas City, Missouri 64106
(OFCCP only)

Region VIII

1999 Broadway Street
Denver, Colorado 80202
(For Wage and Hour and OFCCP: Contact Region VI)

1999 Broadway, Suite 600
Denver, Colorado 80202
(OWCP only)

The mailing address for the Regional Director, Bureau of Apprenticeship and Training in Region VIII is: U.S. Custom House 721 19th Street, Room 465, Denver, Colorado 80202

Region IX

71 Stevenson Street
San Francisco, California 94105

Region X

1111 Third Avenue
Seattle, Washington 98101
(For Wage and Hour only: Contact Region IX)

1. Regional Administrator for Administration and Management (OASAM)
2. Regional Personnel Officer, OASAM
3. Regional Director for Information and Public Affairs, Office of Public Affairs (OPA)
4. Regional Administrator for Occupational Safety and Health (OSHA)
5. Regional Commissioner, Bureau of Labor Statistics (BLS)
6. Regional Administrator for Employment and Training Administration (ETA)

(For the following regions Boston, New York, Philadelphia, Atlanta, Dallas, Chicago and San Francisco)

7. Associate Regional Administrator for ETA

(For the following locations Denver, Kansas City and Seattle)

8. Regional Director, Job Corps
9. Director, Regional Office of Apprenticeship and Training, Employer and Labor Services, ETA
10. Regional Administrator for Wage and Hour, ESA
11. Deputy Regional Administrator for Wage and Hour, ESA
12. Regional Operations Manager for Wage and Hour, ESA
13. Regional Director for Federal Contract Compliance Programs, ESA
14. Regional Director for the Office of Workers' Compensation Programs, ESA
15. District Director, Office of Workers' Compensation Programs, ESA

Office of Federal Contract Compliance Programs ESA, Responsible Offices, Regional Offices

1. JFK Federal Building, Room E–235, Boston, Massachusetts 02203
2. 201 Varick Street, Room 750, New York, New York 10014
3. The Curtis Center, 170 South Independence Mall West, Philadelphia, Pennsylvania 19106
4. 61 Forsyth Street, S.W., Suite 7B75, Atlanta, Georgia 30303
5. Klucynski Federal Building, 230 South Dearborn Street, Room 570, Chicago, Illinois 60604
6. Federal Building, 525 South Griffin Street, Room 840, Dallas, Texas 75202
7. 71 Stevenson Street, Suite 1700, San Francisco, California 94105
8. 1111 Third Avenue, Suite 610, Seattle, Washington 98101

Office of Workers' Compensation Programs ESA, Responsible Officials, District Directors

1. John F. Kennedy Federal Building, Room E–260, Boston, Massachusetts 02203 (FECA and LHWCA only)
2. 201 Varick Street, Seventh Floor, Room 750, New York, New York 10014 (LHWCA and FECA only)
3. The Curtis Center, 170 South Independence Mall West, Philadelphia, Pennsylvania 19106 (LHWCA and FECA only)
4. Penn Traffic Building, 319 Washington Street, Johnstown, Pennsylvania 15901 (BLBA only)
5. 105 North Main Street, Suite 100, Wilkes-Barre, Pennsylvania 18701 (BLBA only)
6. Wellington Square, 1225 South Main Street, Suite 405, Greensburg, Pennsylvania 15601 (BLBA only)
7. The Federal Building, 31 Hopkins Plaza, Room 410–B, Baltimore, Maryland 21201 (LHWCA only)
8. Federal Building, 200 Granby Mall, Room #212, Norfolk, Virginia 23510 (LHWCA only)
9. 2 Hale Street, Suite 304, Charleston, West Virginia 25301 (BLBA only)
10. 425 Juliana Street, Suite 3116, Parkersburg, West Virginia 26101 (BLBA only)
11. 800 North Capitol Street, NW., Room 800, Washington, DC 20211 (FECA only)
12. 164 Main Street, Suite 508, Pikeville, Kentucky 41501 (BLBA only)
13. 402 Campbell Way, Mt. Sterling, Kentucky 40353 (BLBA only)
14. 214 N. Hogan Street, 10th Floor, Room 1026, Jacksonville, Florida 32202 (LHWCA and FECA only)
15. 230 South Dearborn Street, Room 800, Chicago, Illinois 60604 (LHWCA and FECA only)
16. 1240 East 9th Street, Room 851, Cleveland, Ohio 44199 (FECA only)
17. 1160 Dublin Road, Suite 300, Columbus, Ohio 43214 (BLBA only)
18. 525 Griffin Street, Federal Building, Dallas, Texas 75202 (FECA only)
19. 701 Loyola Avenue, Room 13032, New Orleans, Louisiana 70113 (LHWCA only)
20. 8866 Gulf Freeway, Suite 140, Houston, Texas 77017 (LHWCA only)
21. City Center Square, Suite 750, 1100 Main Street, Kansas City, Missouri 64105 (FECA only)
22. 1999 Broadway, Suite 600, Denver, Colorado 80202 (FECA and BLBA only)
23. 71 Stevenson Street, Suite 1705, San Francisco, California 94105 (LHWCA and FECA only)
24. 401 E. Ocean Boulevard, Suite 720, Long Beach, California 90802 (LHWCA only)
25. 300 Ala Moana Boulevard, Room 5–135, Honolulu, Hawaii 96850 (LHWCA only)
26. 1111 3rd Avenue, Suite 620, Seattle, Washington 98101 (LHWCA and FECA only)

Mine Safety & Health Administration Field Offices

The mailing address for all requests directed to the field office of the Mine Safety and Health Administration (MSHA) is:

1. Coordinator, Mine Emergency Unit, 1301 Airport Road, Beaver, West Virginia 25813–9426
2. Superintendent, National Mine Health and Safety Academy, 1301 Airport Road, Beaver, West Virginia 25813–9426
3. Chief, Safety and Health Technology Center, P.O. Box 18233, Pittsburgh, Pennsylvania 15236
4. Chief, Approval and Certification Center, R.R. 1, Box 251, Industrial Park Road, Triadelphia, West Virginia 26059
5. Chief, Information Resource Center, P.O. Box 25367, Denver, Colorado 80225–0367
6. Chief, Office of Injury and Employment Information, P.O. Box 25367, Denver, Colorado 80225–0367

District Managers, Coal Mine Safety and Health

1. The Stegmaier Building, Suite 034, 7 N. Wilkes-Barre Blvd., Wilkes-Barre, Pennsylvania 18702
2. 319 Paintersville Road, Hunker, Pennsylvania 15639
3. 604 Cheat Road, Morgantown, West Virginia 26508

   100 Bluestone Road, Mt. Hope, West Virginia 25880
4. P.O. Box 560, Norton, Virginia 24273
5. 100 Fae Ramsey Lane, Pikeville, Kentucky 41501
6. 3837 S. U.S. Hwy 25E, Barbourville, Kentucky 40906
7. 2300 Willow Street, Suite 200, Vincennes, Indiana 47591
8. P.O. Box 25367, Denver, Colorado 80225–0367
9. 100 YMCA Drive, Madisonville, Kentucky 42431–9019
10. 135 Gemini Circle, Suite 213, Birmingham, Alabama 35209

District Managers, Metal and Nonmetal Mine Safety and Health

1. 547 Keystone Drive, Suite 400, Warrensdale, Pennsylvania 15086–7573
2. 135 Gemini Circle, Suite 212, Birmingham, Alabama 35209
3. 515 W. First Street, Suite 333, Duluth, Minnesota 55802–1302
4. 100 Commerce Street, Room 462, Dallas, Texas 75242–0499
5. P.O. Box 25367, Denver, Colorado 80225–0367
6. 2060 Peabody Road, Suite 610, Vacaville, California 95687–6696

Regional Administrator, Occupational Safety And Health Administration (OSHA)

Area Director, OSHA

1. 639 Granite Street, 4th Floor, Braintree, Massachusetts 02184
2. 279 Pleasant Street, Suite 201, Concord, New Hampshire 03301
3. Federal Building, 450 Main Street, Room 613, Hartford, Connecticut 06103
4. 1057 Broad Street, 4th Floor, Bridgeport, Connecticut 06604
5. 1441 Main Street, Room 550, Springfield, Massachusetts 01103
6. 202 Harlow Street, Room 211, Bangor, Maine 04401
7. West Tower, 100 Middle Street, Suite 410 West, Portland, Maine 04101
8. Federal Office Building, 380 Westminister Mall, Room 543, Providence, Rhode Island 02903
9. Valley Office Park, 13 Branch Street, Methuen, Massachusetts 01844
10. 201 Varick Street, Room 646, New York, New York 10014
11. 1400 Old Court Road, Room 208, Westbury, New York 11590
12. 42–40 Bell Boulevard, Bayside, New York 11361
13. 401 New Karner Road, Suite 300, Albany, New York 12205
14. Plaza 35, 1030 St. Georges Avenue, Suite 205, Avenel, New Jersey 07001
15. 299 Cherry Hill Road, Suite 304, Parsippany, New Jersey 07054
16. 3300 Vikery Road, North Syracuse, New York 13212
17. 5360 Genesee Street, Bowmansville, New York 14026
18. Triple SSS Plaza Building, 1510 F.D. Roosevelt Avenue, Suite 5B, Guaynabo, Puerto Rico 00968
19. 500 Route 17 South, 2nd Floor, Hasbrouck Heights, New Jersey 07604
20. Marlton Executive Park, Building 2, Suite 120, 701 Route 73 South, Marlton, New Jersey 08053
21. 660 White Plains Road, 4th Floor, Tarrytown, New York 10591
22. U.S. Customs House, Second & Chestnut Streets, Room 242, Philadelphia, Pennsylvania 19106
23. Cabeb Boggs Federal Building, 844 N. King Street, Room 2209, Wilmington, Delaware 19801
24. Federal Office Building, 1000 Liberty Avenue, Room 1428, Pittsburgh, Pennsylvania 15222
25. 3939 West Ridge Road, Suite B12, Erie, Pennsylvania 16506
26. Federal Office Building, 200 Granby Street, Room 614, Norfolk, Virginia 23510
27. Stegmaier Building, Suite 410, 7 N. Wilkes-Barre Blvd., Wilkes-Barre, Pennsylvania 18702
28. 850 North 5th Street, Allentown, Pennsylvania 18102
29. 405 Capitol Street, Suite 407, Charleston, West Virginia 25301
30. 1099 Winterson Road, Suite 140, Linthicum, Maryland 21090
31. Progress Plaza, 49 N. Progress Avenue, Harrisburg, Pennsylvania 17109
32. 2400 Herodian Way, Suite 250, Smyrna, Georgia 30080
33. 450 Mall Boulevard, Suite J, Savannah, Georgia 31419
34. Vestavia Village, 2047 Canyon Road, Birmingham, Alabama 35216
35. 8040 Peters Road, Building H–100, Fort Lauderdale, Florida 33324
36. Ribault Building, 1851 Executive Center Drive, Suite 227, Jacksonville, Florida 32207
37. 5807 Breckenridge Parkway, Suite A, Tampa, Florida 33610
38. 1835 Assembly Street, Room 1468, Columbia, South Carolina 29201
39. 3780 I–55 North, Suite 210, Jackson, Mississippi 39211
40. 3737 Government Boulevard, Suite 100, Mobile, Alabama 36693
41. 2002 Richard Jones Road, Suite C–205, Nashville, Tennessee 37215
42. John C. Watts Federal Building, 330 West Broadway, Room 108, Frankfort, Kentucky 40601
43. LaVista Perimeter Office Park, 2183 N. Lake Parkway, Building 7, Suite 110, Tucker, Georgia 30084
44. Century Station Federal Office Building, 300 Fayetteville Mall, Room 438, Raleigh, North Carolina 27601
45. 1600 167th Street, Suite 9, Calumet City, Illinois 60409
46. 701 Lee Street, Suite 950, Des Plaines, Illinois 60016
47. 11 Executive Drive, Suite 11, Fairview Heights, Illinois 62208
48. 365 Smoke Tree Business Park, North Aurora, Illinois 60542
49. Federal Office Building, 1240 East 9th Street, Room 899, Cleveland, Ohio 44199
50. Federal Office Building, 200 N. High Street, Room 620, Columbus, Ohio 43215
51. 46 East Ohio Street, Room 453, Indianapolis, Indiana 46204
52. 36 Triangle Park Drive, Cincinnati, Ohio 45246
53. 1648 Tri Parkway, Appleton, Wisconsin 54914
54. 1310 West Clairmont Avenue, Eau Claire, Wisconsin 54701
55. Henry S. Reuss Building, 310 West Wisconsin Avenue, Room 1180, Milwaukee, Wisconsin 53202
56. 300 South 4th Street, Suite 1205, Minneapolis, Minnesota 55415
57. 420 Madison Avenue, Suite 600, Toledo, Ohio 43604
58. 801 South Waverly Road, Suite 306, Lansing, Michigan 48917
59. 4802 East Broadway, Madison, Wisconsin 53716
60. 2918 W. Willow Knolls Road, Peoria, Illinois 61614
61. 8344 East R.L. Thornton Freeway, Suite 420, Dallas, Texas 75228
62. 1033 LaPosada Drive, Suite 375, Austin, Texas 78752
63. 9100 Bluebonnet Centre Blvd., Suite 201, Baton Rouge, Louisiana 70809
64. Wilson Plaza 606 N. Carancahua, Suite 700, Corpus Christi, Texas 78476
65. Federal Office Building, 1205 Texas Avenue, Room 806, Lubbock, Texas 79401
66. 507 North Sam Houston Parkway, Suite 400, Houston, Texas 77060
67. 17625 El Camino Real, Suite 400, Houston, Texas 77058
68. 55 North Robinson, Suite 315, Oklahoma City, Oklahoma 73102
69. North Starr II, 8713 Airport Freeway, Suite 302, Fort Worth, Texas 76180
70. TCBY Building, 425 West Capitol Avenue, Suite 450, Little Rock, Arkansas 72201
71. 700 E. San Antonio Street, Room C–408, El Paso, Texas 79901
72. 6200 Connecticut Avenue, Suite 100, Kansas City, Missouri 64120
73. 911 Washington Avenue, Room 420, St. Louis, Missouri 63101

74. 210 Walnut Street, Room 815, Des Moines, Iowa 50309
75. 217 West 3rd Street, Room 400, Wichita, Kansas 67202
76. Overland-Wolf Building, 6910 Pacific Street, Room 100, Omaha, Nebraska 68106
77. 2900 Fourth Avenue North, Suite 303, Billings, Montana 59101
78. 1640 East Capitol Avenue, Bismarck, North Dakota 58501
79. 7935 East Prentice Avenue, Suite 209, Greenwood Village, Colorado 80111
80. 1391 Speer Boulevard, Suite 210, Denver, Colorado 80204
81. 705 North Plaza, Room 204, Carson City, Nevada 89701
82. 3221 North 16th Street, Suite 100, Phoenix, Arizona 85016
83. 5675 Ruffin Road, Suite 330, San Diego, California 92123
84. 160 E 300 South, Heber-Wells Building, P.O. Box 146650, Salt Lake City, Utah 84114–6650
85. 301 West Northern Lights Boulevard, Suite 407, Anchorage, Alaska 99503
86. 1150 N. Curtis Road, Suite 201, Boise, Idaho 83706
87. 505 106th Avenue, Northeast, Suite 302, Bellevue, Washington 98004
88. Federal Office Building, 1220 Southwest Third Avenue, Room 640, Portland, Oregon 97204

Employee Benefits Security Administration Regional Director or District Supervisor

1. Regional Director, J.F.K. Federal Building, Room 575, Boston, Massachusetts 02203
2. Regional Director, 201 Varick Street, New York, New York 10014
3. Regional Director, The Curtis Center, 170 South Independence Mall West, Suite 870 West, Philadelphia, Pennsylvania 19106
4. District Supervisor, 1335 East-West Highway, Suite 200, Silver Spring, Maryland 20910
5. Regional Director, 61 Forsyth Street, S.W., Room 7B54, Atlanta, Georgia 30303
6. District Supervisor, 8040 Peters Road, Building H, Suite 104, Plantation, Florida 33324
7. Regional Director, 1885 Dixie Highway, Suite 210, Ft. Wright, Kentucky 41011
8. District Supervisor, 211 West Fort Street, Suite 1310, Detroit, Michigan 48226
9. Regional Director, 200 West Adams Street, Suite 1600, Chicago, Illinois 60606
10. Regional Director, 1100 Main Street, Suite 1200, Kansas City, Missouri 64105
11. District Supervisor, Robert Young Federal Building, 1222 Spruce Street, Room 6.310, St. Louis, Missouri 63103
12. Regional Director, 525 Griffin Street, Room 900, Dallas, Texas 75202
13. Regional Director, 71 Stevenson Street, Suite 915, P.O. Box 190250, San Francisco, California 94119
14. District Director, 1111 Third Avenue, Room 860, Seattle, Washington 98101
15. Regional Director, 1055 E. Colorado Blvd, Suite 200, Pasadena, California 91106

Regional Administrators, Veterans' Employment and Training Service (VETS)

Region I

J.F. Kennedy Federal Building
Government Center, Room E–315
Boston, Massachusetts 02203

Region II

201 Varick Street, Room 766
New York, New York 10014

Region III

U.S. Customs House
Second and Chestnut Streets, Room 802
Philadelphia, Pennsylvania 19106

Region IV

Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W., Room 6T85
Atlanta, Georgia 30303

Region V

230 South Dearborn, Room 1064
Chicago, Illinois 60604

Region VI

525 Griffin Street, Room 858
Dallas, Texas 75202

Region VII

City Center Square Building
1100 Main Street, Suite 850
Kansas City, Missouri 64105

Region VIII

1999 Broadway, Suite 1730
Denver, Colorado 80202

Region IX

71 Stevenson Street, Suite 705
San Francisco, California 94105

Region X

1111 Third Avenue, Suite 800
Seattle, Washington 98101

Appendix B to Part 70—[Reserved]

Signed at Washington, DC, this 22nd day of May 2006.

Steven J. Law,

Deputy Secretary of Labor.

[FR Doc. 06–4885 Filed 5–26–06; 8:45 am]

BILLING CODE 4510–23–P

Federal Register

Tuesday,
May 30, 2006

Part IV

Department of Education

Grants for the Integration of Schools and Mental Health Systems; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2006; Notices

DEPARTMENT OF EDUCATION

Grants for the Integration of Schools and Mental Health Systems

AGENCY: Office of Safe and Drug-Free Schools, Department of Education.

ACTION: Notice of final requirements.

SUMMARY: The Assistant Deputy Secretary for Safe and Drug-Free Schools announces five requirements under the Grants for the Integration of Schools and Mental Health Systems program. We may use these requirements for competitions in fiscal year (FY) 2006 and later years. We take this action to focus Federal financial assistance on an identified national need. We intend the requirements to improve the linkages among local school systems, local mental health systems, and local juvenile justice systems.

DATES: *Effective Date:* These requirements are effective June 29, 2006.

FOR FURTHER INFORMATION CONTACT: Dana Carr, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E242, FB–6, Washington, DC 20202–6450. Telephone: (202) 260–0823 or via Internet: *dana.carr@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION: The Grants for the Integration of Schools and Mental Health Systems program seeks to enhance access to mental health services through improved linkages among school, mental health, and juvenile justice systems in a manner that is complementary to and does not duplicate any previous or ongoing efforts.

We published a notice of proposed requirements for this competition in the **Federal Register** on March 9, 2006 (71 FR 12187). The notice of proposed requirements included a discussion of the significant issues that support the need for these requirements.

There are no differences between the notice of proposed requirements and this notice of final requirements.

Analysis of Comments and Changes

In response to our invitation in the notice of proposed requirements, we received two comments on the proposed requirements. An analysis of the comments and of any changes in the requirements since publication of the notice of proposed requirements follows.

We group major issues according to requirement. Generally, we do not address technical and other minor changes—and suggested changes the law does not authorize us to make under the applicable statutory authority.

Requirement 1—Coordination of Activities

Comment: One commenter suggested that we require applicants from States with awards under the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration's Mental Health Transformation State Infrastructure Grants (MHTSIG) program (CFDA 93.243) to provide specific information relative to some MHTSIG components as part of their application for a grant under this program.

Discussion: Although we appreciate receiving information on the types of approaches that an applicant may take to demonstrate coordination with its State's MHTSIG grant, we believe that imposing specific coordination steps might actually limit the flexibility of grantees in developing coordination activities that address their unique circumstances. We do plan, however, to include the suggestions provided in the comment in the application package as examples of how applicants could coordinate their proposed projects with their State's MHTSIG grant.

Change: None.

Requirement 2—Safe Schools/Healthy Students Recipients Excluded from Receiving Awards

Comment: One commenter recommended that we allow former Safe Schools/Healthy Students grantees to apply under the Grants for the Integration of Schools and Mental Health Systems program in unique circumstances, such as if the community has demonstrated making significant progress towards improved linkages.

Discussion: The intent of the Safe Schools/Healthy Students program is to create system-level change that continues after the grant period, with the goal of sustaining linkages between schools and community systems that provide services to students and families. Awarding a grant under this program to a Safe Schools/Healthy Students program grantee would result in the duplication of this systems-level infrastructure development effort, and concentration of limited financial resources in projects that have already received significant funding to support similar activities. Therefore, we believe that no change in the proposed requirement is merited.

Change: None.

Requirement 3—Preliminary Interagency Agreement (IAA)

Comment: One commenter suggested that the process of developing the required preliminary agreement might be more important than the agreement itself. This commenter recommended that applicants document the process involved in developing relationships and involving parents, in addition to providing the required preliminary IAA.

Discussion: We agree with the commenter that the process of developing the required preliminary agreement will likely be an important part of efforts to establish a long-term collaboration between partners. However, additional documentation requirements would impose a significant burden on grantees.

Change: None.

Requirement 4—Inclusion of Parental Consent Considerations in Final IAA

Comment: One commenter suggested that parents should be significantly involved in developing the IAA and processes for parental consent, and that parent involvement should be paramount throughout the integration process.

Discussion: Parents or other caregivers must provide consent for planned mental health services, consistent with State or local laws or other requirements. We encourage grantees to include parents in developing policies and procedures for furnishing parental consent, as well as in broader efforts to establish meaningful collaboration; however, imposing additional specific requirements for parental involvement may limit the flexibility of grantees to design and implement a project that appropriately responds to local conditions and circumstances.

Change: None.

Requirement 5—Provision of Direct Services

Comment: One commenter recommended that we allow grantees to use program funds to support direct services to students in school-based settings.

Discussion: We believe that using limited program funds to hire or contract for services will do little to improve collaborative efforts or community infrastructure. If these funds were used to cover the costs of providing mental health services, the

significant associated costs would not only restrict the available funding under the program to a very limited number of sites, but would also divert funding from efforts to create a sustainable infrastructure that improves students' access to mental health services. Additionally, the Department of Education offers other grant opportunities, including Safe Schools/Healthy Students initiative grants and Elementary and Secondary School Counseling grants that provide financial support for the provision of mental health services in school-based settings.

Change: None.

Note: This notice does *not* solicit applications. In any year in which we choose to use these requirements, we invite applications through a notice in the **Federal Register**.

Requirements

Requirement 1—Coordination of Activities

Recipients of a grant under the Grants for the Integration of Schools and Mental Health Systems program are required to coordinate project activities with projects funded under the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration's Mental Health Transformation State Infrastructure Grants (MHTSIG) program (CFDA 93.243), if a grantee's State receives a MHTSIG award. If a recipient of a grant under the Grants for the Integration of Schools and Mental Health Systems program has received or receives a grant under the Department of Education's Emergency Response and Crisis Management (ERCM) program (CFDA 84.184E), the recipient must coordinate mental health service activities under this grant with those planned under its ERCM grant. Projects funded by this program must complement, rather than duplicate, existing or ongoing efforts.

Requirement 2—Safe Schools/Healthy Students Recipients Excluded From Receiving Awards

Former or current recipients under the Safe Schools/Healthy Students program (CFDA 84.184L) are not eligible to receive a Grant for the Integration of Schools and Mental Health Systems program. Recipients of Safe Schools/Healthy Students awards are responsible for completing a scope of work under that program that is very similar to the activities required under the Grants for the Integration of Schools and Mental Health Systems program. By restricting the applicant pool to eliminate former or current grantees under the Safe Schools/Healthy Students program, we will be able to focus Federal funds on entities that have not yet received Federal support to develop and implement strong linkages with other entities in their communities for the provision of mental health services to students.

Applicants may compete for both the Grants for the Integration of Schools and Mental Health Systems and Safe Schools/Healthy Students programs in the same year; if applicants are deemed eligible for funding in both grant competitions, the applicant will receive the larger and more comprehensive of the awards.

Requirement 3—Preliminary Interagency Agreement

Applicants for an award under the Grants for the Integration of Schools and Mental Health Systems program must develop and submit with their applications a preliminary interagency agreement (IAA). The IAA must contain the signatures of an authorized representative of at least (1) one or more State or local educational agencies or Indian tribes; (2) one or more juvenile justice authorities; and (3) one or more State or local public mental health agencies. This preliminary IAA would confirm the commitment of these partners to complete the work under the proposed project, if funded. If the applicant is funded, recipients will complete a final IAA as required by section 5541(e) of the Elementary and Secondary Education Act of 1965, as amended (ESEA). The final IAA must be completed and submitted to us, signed by all parties, no later than 12 months after the award date.

Applications that do not include the proposed preliminary IAA with all of the required signatures will be rejected and not be considered for funding.

Requirement 4—Inclusion of Parental Consent Considerations in Final IAA

The final Interagency Agreement (IAA) must include a description of policies and procedures that would ensure appropriate parental or caregiver consent for any planned services, pursuant to State or local laws or other requirements.

Requirement 5—Provision of Direct Services

Grant funds under this program must not be used to provide direct services to students.

Executive Order 12866

This notice of final requirements has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of final requirements are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of final requirements, we have determined that the benefits of the final requirements justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

We summarized the costs and benefits in the notice of proposed requirements.

Intergovernmental Review

This program is subject to Executive order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism.

The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Electronic Access to This Document

You may view this document, as well as all other documents of this

Department published in the **Federal Register**, in text or Adobe Portable

Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

Program Authority: 20 U.S.C. 7269.

(Catalog of Federal Domestic Assistance Number: 84.215M)

Dated: May 24, 2006.

Deborah A. Price,

Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. 06–4947 Filed 5–26–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Safe and Drug-Free Schools; Overview Information; Grants for the Integration of Schools and Mental Health Systems; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2006

Catalog of Federal Domestic Assistance (CFDA) Number: 84.215M

DATES: *Applications Available:* May 30, 2006.

Deadline for Transmittal of Applications: July 10, 2006.

Deadline for Intergovernmental Review: August 9, 2006.

Eligible Applicants: State educational agencies (SEAs), local educational agencies (LEAs), and Indian tribes. Additional eligibility requirements are listed elsewhere in this notice under section I. Funding Opportunity Description, *Additional Requirements.*

Estimated Available Funds: $4,861,300. Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2007 from the list of unfunded applications from this competition.

Estimated Range of Awards: $150,000–$350,000.

Estimated Average Size of Awards: $243,065.

Estimated Number of Awards: 20.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 18 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: Grants for the Integration of Schools and Mental Health Systems will provide funds to increase student access to high-quality mental health care by developing innovative approaches that link school systems with the local mental health system.

Priority: In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 5541 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7269).

Absolute Priority: For FY 2006 and any subsequent year in which we make awards based on the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Increasing student access to quality mental health care by developing innovative approaches to link local school systems with the local mental health system. A program funded under this absolute priority must include all of the following activities:

(1) Enhancing, improving, or developing collaborative efforts between school-based service systems and mental health service systems to provide, enhance, or improve prevention, diagnosis, and treatment services to students.

(2) Enhancing the availability of crisis intervention services, appropriate referrals for students potentially in need of mental health services, and ongoing mental health services.

(3) Providing training for the school personnel and mental health professionals who will participate in the program.

(4) Providing technical assistance and consultation to school systems and mental health agencies and families participating in the program.

(5) Providing linguistically appropriate and culturally competent services.

(6) Evaluating the effectiveness of the program in increasing student access to quality mental health services, and making recommendations to the Secretary about sustainability of the program.

Additional Requirements: The following requirements are from the notice of final requirements for this program published elsewhere in this issue of the **Federal Register**.

Requirement 1—Coordination of Activities

Recipients of a grant under the Grants for the Integration of Schools and Mental Health Systems program are required to coordinate project activities with projects funded under the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration's Mental Health Transformation State Infrastructure Grants (MHTSIG) program (CFDA 93.243), if a grantee's State receives a MHTSIG award. If a recipient of a grant under the Grants for the Integration of Schools and Mental Health Systems program has received or receives a grant under the Department of Education's Emergency Response and Crisis Management (ERCM) program (CFDA 84.184E), the recipient must coordinate mental health service activities under this grant with those planned under its ERCM grant. Projects funded by this program must complement, rather than duplicate, existing or ongoing efforts.

Requirement 2—Safe Schools/Healthy Students Recipients Excluded From Receiving Awards

Former or current recipients under the Safe Schools/Healthy Students program (CFDA 84.184L) are not eligible to receive a grant under this program. Recipients of Safe Schools/Healthy Students awards are responsible for completing a scope of work under that program that is very similar to the activities required under the Grants for the Integration of Schools and Mental Health Systems program. By restricting the applicant pool to eliminate former or current grantees under the Safe Schools/Healthy Students program, we will be able to focus Federal funds on entities that have not yet received Federal support to develop and implement strong linkages with other entities in their communities for the provision of mental health services to students.

Applicants may compete for both the Grants for the Integration of Schools and Mental Health Systems and Safe Schools/Healthy Students programs in the same year; if applicants are deemed eligible for funding in both grant competitions, the applicant will receive the larger and more comprehensive of the awards.

Requirement 3—Preliminary Interagency Agreement (IAA)

Applicants for an award under the Grants for the Integration of Schools and Mental Health Systems program must develop and submit with their applications a preliminary interagency agreement (IAA). The IAA must contain the signatures of an authorized representative of at least (1) one or more State or local educational agencies or Indian tribes; (2) one or more juvenile justice authorities; and (3) one or more State or local public mental health agencies. This preliminary IAA would confirm the commitment of these partners to complete the work under the proposed project, if funded. If the applicant is funded, recipients will complete a final IAA as required by section 5541(e) of the Elementary and Secondary Education Act of 1965, as amended (ESEA). The final IAA must be completed and submitted to us, signed by all parties, no later than 12 months after the award date.

Applications that do not include the proposed preliminary IAA with all of the required signatures will be rejected and not be considered for funding.

Requirement 4—Inclusion of Parental Consent Considerations in Final IAA

The final IAA must include a description of policies and procedures that would ensure appropriate parental or caregiver consent for any planned services, pursuant to State or local laws or other requirements.

Requirement 5—Provision of Direct Services

Grant funds under this program must not be used to provide direct services to students.

Program Authority: 20 U.S.C. 7269.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 97, 98, 99, and 299.

(b) The notice of final requirements for this program published elsewhere in this issue of the **Federal Register**.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $4,861,300. Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2007 from the list of unfunded applications from this competition.

Estimated Range of Awards: $150,000–$350,000.

Estimated Average Size of Awards: $243,065.

Estimated Number of Awards: 20.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 18 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs, LEAs, and Indian tribes. Additional eligibility requirements are listed elsewhere in this notice under section I. Funding Opportunity Description, *Additional Requirements.*

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching but does have a supplement-not-supplant requirement. Any services provided through programs carried out under this grant must supplement, and not supplant, existing mental health services, including any services provided under the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*).

IV. Application and Submission Information

1. *Address To Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.215 M.

You may also download the application from the Department of Education's Web site at: *http://www.ed.gov/fund/grant/apply/grantapps/index.html.*

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

The public can also obtain applications directly from the program office: Dana Carr, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E242, Washington, DC 20202–6450. Telephone: (202) 260–0823 or by e-mail: *dana.carr@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, including the requirements for Interagency Agreements, together with the forms you must submit, are in the application package for this program.

3. *Submission Dates and Times: Applications Available:* May 30, 2006.

Deadline for Transmittal of Applications: July 10, 2006.

Applications for grants under this competition may be submitted electronically using the Electronic Grant Application System (e-Application) accessible through the Department's e-Grants system, or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV.6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: August 9, 2006.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* Grant funds under this program will not be used to provide direct services to students. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

If you choose to submit your application to us electronically, you must use e-Application available through the Department's e-Grants system, accessible through the e-Grants portal page at: *http://e-grants.ed.gov.*

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

- Your participation in e-Application is voluntary.
- You must complete the electronic submission of your grant application by 4:30 p.m., Washington, DC time, on the application deadline date. The e-Application system will not accept an application for this competition after 4:30 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.
- The regular hours of operation of the e-Grants Web site are 6 a.m. Monday until 7 p.m. Wednesday; and 6 a.m. Thursday until midnight Saturday, Washington, DC time. Please note that the system is unavailable on Sundays, and between 7 p.m. on Wednesdays and 6 a.m. on Thursdays, Washington, DC time, for maintenance. Any modifications to these hours are posted on the e-Grants Web site.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.
- You must submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. If you choose to submit your application

electronically, you must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified above or submit a password protected file, we will not review that material.

• Your electronic application must comply with any page limit requirements described in this notice.

• Prior to submitting your electronic application, you may wish to print a copy of it for your records.

• After you electronically submit your application, you will receive an automatic acknowledgment that will include a PR/Award number (an identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the ED 424 to the Application Control Center after following these steps:

(1) Print ED 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the ED 424.

(4) Fax the signed ED 424 to the Application Control Center at (202) 245–6272.

• We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If you are prevented from electronically submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day to enable you to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2)(a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) The e-Application system is unavailable for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If the system is down and therefore the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application.

Extensions referred to in this section apply only to the unavailability of the Department's e-Application system. If the e-Application system is available, and, for any reason, you are unable to submit your application electronically or you do not receive an automatic acknowledgment of your submission, you may submit your application in paper format by mail or hand delivery in accordance with the instructions in this notice.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.215M), 400 Maryland Avenue, SW., Washington, DC 20202–4260; or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.215M), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.215M), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the ED 424 the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* Additional factors we consider in selecting an application for an award are the equitable distribution of grants among the geographical regions of the United States and among urban, suburban, and rural populations.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. You must also submit an interim progress report twelve months after the award date. This report should provide the most current performance and financial expenditure information, including baseline data.

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of the Grants for the Integration of Schools and Mental Health Systems program:

a. The percentage of schools served by the grant that have comprehensive, detailed linkage protocols in place; and

b. The percentage of school personnel served by the grant who are trained to make appropriate referrals to mental health services.

These two measures constitute the Department's measures of success for this program. Consequently, applicants for a grant under this program are advised to give careful consideration to these two measures in conceptualizing the approach and evaluation of their proposed project. If funded, applicants will be asked to collect and report data in their performance and final reports about progress toward these measures. The Secretary will also use this information to respond to the evaluation requirements concerning this program established in section 5541(f) of the ESEA.

VII. Agency Contact

For Further Information Contact: Dana Carr, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E242, Washington, DC 20202–6450. Telephone: (202) 260–0823 or by e-mail: *dana.carr@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: May 24, 2006.

Deborah A. Price,

Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. 06–4936 Filed 5–26–06; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Tuesday,
May 30, 2006

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations for the 2006–07 Hunting Season; Notice of Meetings; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AT76

Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations for the 2006–07 Hunting Season; Notice of Meetings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter, Service or we) proposed in an earlier document to establish annual hunting regulations for certain migratory game birds for the 2006–07 hunting season. This supplement to the proposed rule provides the regulatory schedule; announces the Service Migratory Bird Regulations Committee and Flyway Council meetings; provides Flyway Council recommendations resulting from their March meetings; and provides regulatory alternatives for the 2006–07 duck hunting seasons.

DATES: The Service Migratory Bird Regulations Committee will meet to consider and develop proposed regulations for early-season migratory bird hunting on June 21 and 22, 2006, and for late-season migratory bird hunting and the 2007 spring/summer migratory bird subsistence seasons in Alaska on July 26 and 27, 2006. All meetings will commence at approximately 8:30 a.m. Following later **Federal Register** notices, you will be given an opportunity to submit comments for proposed early-season frameworks by July 30, 2006, and for proposed late-season frameworks and subsistence migratory bird seasons in Alaska by August 30, 2006.

ADDRESSES: The Service Migratory Bird Regulations Committee will meet in room 200 of the U.S. Fish and Wildlife Service's Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. Send your comments on the proposals to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240. All comments received, including names and addresses, will become part of the public record. You may inspect comments during normal business hours in room 4107, Arlington Square Building, 4501 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, at: Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2006

On April 11, 2006, we published in the **Federal Register** (71 FR 18562) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. This document is the second in a series of proposed, supplemental, and final rules for migratory game bird hunting regulations. We will publish proposed early-season frameworks in early July and late-season frameworks in early August. We will publish final regulatory frameworks for early seasons on or about August 18, 2006, and for late seasons on or about September 15, 2006.

Service Migratory Bird Regulations Committee Meetings

The Service Migratory Bird Regulations Committee will meet June 21–22, 2006, to review information on the current status of migratory shore and upland game birds and develop 2006–07 migratory game bird regulations recommendations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands. The Committee will also develop regulations recommendations for special September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, the Committee will review and discuss preliminary information on the status of waterfowl.

At the July 26–27, 2006, meetings, the Committee will review information on the current status of waterfowl and develop 2006–07 migratory game bird regulations recommendations for regular waterfowl seasons and other species and seasons not previously discussed at the early-season meetings. In addition, the Committee will develop recommendations for the 2007 spring/summer migratory bird subsistence season in Alaska.

In accordance with Departmental policy, these meetings are open to public observation. You may submit written comments to the Service on the matters discussed.

Announcement of Flyway Council Meetings

Service representatives will be present at the individual meetings of the four Flyway Councils this July. Although agendas are not yet available, these meetings usually commence at 8 a.m. on the days indicated.

Atlantic Flyway Council: July 20–21, Embassy Suites, 337 Meeting Street, Charleston, South Carolina.

Mississippi Flyway Council: July 22–23, Doubletree Inn, Westport, Missouri.

Central Flyway Council: July 20–21, Holiday Inn, Estes Park, Colorado.

Pacific Flyway Council: July 19, Doubletree Hotel, Spokane City Center, Spokane, Washington.

Review of Public Comments

This supplemental rulemaking describes Flyway Council recommended changes based on the preliminary proposals published in the April 11, 2006, **Federal Register**. We have included only those recommendations requiring either new proposals or substantial modification of the preliminary proposals. This supplement does not include recommendations that simply support or oppose preliminary proposals and provide no recommended alternatives. We will consider these recommendations later in the regulations-development process. We will publish responses to all proposals and written comments when we develop final frameworks. In addition, this supplemental rulemaking contains the regulatory alternatives for the 2006–07 duck hunting seasons. We have included all Flyway Council recommendations received relating to the development of these alternatives.

We seek additional information and comments on the recommendations in this supplemental proposed rule. New proposals and modifications to previously described proposals are discussed below. Wherever possible, they are discussed under headings corresponding to the numbered items identified in the April 11, 2006, proposed rule. Only those categories requiring your attention or for which we received Flyway Council recommendations are discussed below.

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) General Harvest Strategy, (B) Regulatory Alternatives, including specification of framework dates, season length, and bag limits, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management.

A. General Harvest Strategy

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that regulations changes be restricted to one step per year, both when restricting as well as liberalizing hunting regulations.

Service Response: As we stated last year in the June 24, 2005, **Federal Register** (70 FR 36794), our incorporation of a one-step constraint into the Adaptive Harvest Management (AHM) process was addressed by the AHM Task Force of the International Association of Fish and Wildlife Agencies (IAFWA) in its report and recommendations. This recommendation will be included in considerations of potential changes to the set of regulatory alternatives at a later time.

B. Regulatory Alternatives

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that regulatory alternatives for duck hunting seasons remain the same as those used in 2005.

The Central Flyway Council recommended that the Service adopt AHM duck regulations packages and additional species/sex restrictions for the Central Flyway in 2006–07 that are the same as those used in the 2005–06 season, except for the following changes necessary for implementation of the Hunter's Choice evaluation proposal, provided that Federal frameworks permit open seasons for pintails and canvasbacks:

(1) In Montana, Nebraska, Colorado, Oklahoma, and New Mexico, frameworks will establish 39-day season lengths, concurrent with the regular season zones and splits, and 1-bird daily bag limit for both pintails and canvasbacks; and

(2) In North Dakota, South Dakota, Wyoming, Kansas, and Texas, Hunter's Choice bag limit regulations will be used as follows:

Within the ''liberal'' and ''moderate'' regulatory alternatives, the daily bag limit will be 5 ducks, with species and sex restrictions as follows: Scaup, redhead, and wood duck—2; only 1 duck from the following group: Hen mallard, mottled duck, pintail, canvasback. Within the ''restrictive'' regulatory alternative, the daily bag limit will be 3 ducks, with species and sex restrictions as follows: Scaup, redhead and wood duck—2; only 1 duck from the following group: Hen mallard, mottled duck, pintail, canvasback. The possession limit will be twice the daily bag limit under all regulatory alternatives.

The Central Flyway Council further recommends that these frameworks remain in place for the duration of the Hunter's Choice evaluation.

Service Response: On March 11, 2005, the AHM Task Force submitted a draft final report (*http://migratorybirds.fws.gov/mgmt/ahm/taskforce/taskforce.htm*) to the IAFWA Executive Committee concerning the future development and direction of AHM. The Task Force endeavored to develop a strategic approach that was comprehensive and integrative, that recognized the diverse perspectives and desires of stakeholders, that was consistent with resource monitoring and assessment capabilities, and that hopefully could be embraced by all four Flyways Councils. We appreciate the extensive discussion the report has received over the past year and look forward to continuing dialogue concerning the future strategic course for AHM.

One of the most widely debated issues continues to be the nature of the regulatory alternatives. The Task Force recommended a simpler and more conservative approach than is reflected in the regulatory alternatives used since 1997, which are essentially those proposed by the Service for the 2006–07 hunting season (April 11 **Federal Register**). As yet, however, no consensus has emerged among the Flyway Councils concerning modifications to the regulatory alternatives, nor is such consensus expected in time to select a regulatory alternative for the 2006–07 hunting season. Therefore, the regulatory alternatives proposed in the April 11 **Federal Register** will be used for the 2006–07 hunting season. In 2005, the AHM regulatory alternatives were modified to consist only of the maximum season lengths, framework dates, and bag limits for total ducks and mallards. Restrictions for certain species within these frameworks that are not covered by existing harvest strategies will be addressed during the late-season regulations process. For those species with existing harvest strategies (canvasbacks and pintails), those strategies to be used for the 2006–07 hunting season.

In November 2005 and January 2006, the Service's Division of Migratory Bird Management conducted technical reviews of the Central Flyway's ''Hunter's-Choice'' bag-limit experiment. Based on these reviews, the Central Flyway submitted a revised proposal to the Service in March 2006. The Service is considering this revised proposal to implement the ''Hunter's-Choice'' bag-limit experiment in the Central Flyway. This proposal will be addressed during the late-season regulations process.

C. Zones and Split Seasons

Council Recommendations: The Central Flyway Council recommended a minor change to the High Plains Mallard Management Unit (HPMMU) boundary in South Dakota.

The Pacific Flyway Council recommended two changes to zones in the Pacific Flyway for the duck season framework: (1) Modifying the boundary between the Northeast and Balance of the State Zone in the Shasta Valley of California; and (2) creating two zones in the Pacific Flyway portion of Wyoming.

4. Canada Geese

A. Special Seasons

Council Recommendations: The Atlantic Flyway Council made several recommendations dealing with early Canada goose seasons. First, the Council recommended that the Service allow the use of special regulations (electronic calls, unplugged guns, extended hunting hours) later than September 15 during existing September Canada goose hunting seasons in Atlantic Flyway States. Use of these special regulations would be limited to the geographic areas of States that were open to hunting and under existing September season ending dates as approved by the Service for the 2006 regulation cycle. This regulation would take effect as soon as the final rule on resident Canada goose management is effective. Second, the Council recommended increasing the Atlantic Flyway's September Canada goose hunting season daily bag limit to 15 geese, with a possession limit of 30 geese, beginning with the 2006–07 hunting season. Lastly, the Council recommended allowing Maryland to modify the boundary of their Early Resident Canada Goose Western Zone.

The Central Flyway Council recommended that evaluation requirements for September Canada goose hunting seasons from September 16 to September 30 be waived for all east-tier Central Flyway States south of North Dakota. The Council also recommended that the Oklahoma experimental September Canada goose season be allowed to continue until sufficient goose tail fan samples are obtained for the September 16–30 time period to meet Service evaluation requirements and that Kansas be allowed to implement a three year (2006–08) experimental Canada goose season during the September 16–30 period.

B. Regular Seasons

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the framework opening date for all species of geese for the regular goose seasons be September 16 in 2006 and future years. If this recommendation is not approved, the Committees recommended that the framework opening date for all species of geese for the regular goose seasons in Michigan and Wisconsin be September 16, 2006.

The Central Flyway Council recommended that Canada goose regulations be moved to the early-season regulations schedule in the east-tier States of the Central Flyway. Further, the Council recommended a season framework of 107 days with a daily bag limit of 3 Canada geese (or any other goose species except light geese and white-fronted geese) in all east-tier States, except in the Big Stone Power Plant area of South Dakota where the daily bag limit would be 3 until November 30 and 2 thereafter. Framework dates would be September 16 to the Sunday nearest February 15 (February 18, 2007). States could split the season twice, and the possession limit would be twice the daily bag limit.

7. Snow and Ross's (Light) Geese

Council Recommendations: The Atlantic Flyway Council recommended raising the possession limit of geese to four times the daily bag limit, except where currently more liberal.

8. Swans

Council Recommendations: The Atlantic Flyway Council recommended allowing the take of tundra swans during the special youth waterfowl hunt day(s) to those individuals holding a valid permit/tag.

9. Sandhill Cranes

Council Recommendations: The Central Flyway Council recommended using the 2006 Rocky Mountain Population sandhill crane harvest allocation of 1,321 birds as proposed in the allocation formula using the 2003–2005 three-year running average.

The Pacific Flyway Council recommended initiating a limited hunt for Lower Colorado River sandhill cranes in Arizona, with the goal of the hunt being a limited harvest of 10 cranes in January. To limit harvest, Arizona would issue permit tags to hunters and require mandatory check of all harvested cranes. To limit disturbance of wintering cranes, Arizona would restrict the hunt to one 3-day period. Arizona would also coordinate with the National Wildlife Refuges where cranes occur.

11. Moorhens and Gallinules

Council Recommendations: The Atlantic Flyway Council recommended changing the framework closing date for moorhens and gallinules from January 20 to January 31 to help standardize the framework ending dates for those webless species that are found in the same areas as waterfowl.

12. Rails

Council Recommendations: The Atlantic Flyway Council recommended changing the framework closing date for rails from January 20 to January 31 to help standardize the framework ending dates for those webless species that are found in the same areas as waterfowl.

16. Mourning Doves

Council Recommendations: The Atlantic, Mississippi, and Central Flyway Councils supported the Service's recommended guidelines for dove zones and split seasons in the Eastern and Central Management Units. The recommended guidelines consisted of the following:

(1) A zone is a geographic area or portion of a State, with a contiguous boundary, for which independent dates may be selected for the dove season.

(2) States in management units approved for zoning may select a zone/split option during an open season. It must remain in place for a 5-year period.

(3) Zoning periods for dove hunting will conform to those years used for ducks, e.g., 2006–2010.

(4) The zone/split configuration consists of two zones with the option for 3-way (3-segment) split seasons in one or both zones. As a grandfathered arrangement, Texas will have three zones with the option for 2-way (2 segments) split seasons in one, two, or all three zones.

(5) States that do not wish to zone for dove hunting may split their seasons into no more than three segments.

The Atlantic and Mississippi Flyway Councils recommended allowing States in the Eastern Management Unit (EMU) to adopt hunting seasons and daily bag limits that include an aggregate daily bag limit composed of mourning doves and white-winged doves, singly or in combination. The Councils further recommended that States be allowed to begin mourning dove seasons as early as September 1, regardless of zones.

17. White-Winged and White-Tipped Doves

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended allowing States in the Eastern Management Unit (EMU) to adopt hunting seasons and daily bag limits that include an aggregate daily bag limit composed of mourning doves and white-winged doves, singly or in combination.

18. Alaska

Council Recommendations: The Pacific Flyway Council recommended maintaining status quo in the Alaska early-season framework, except for the following changes: (1) Council supports an increase in the daily limit for white geese from 3 to 4, consistent with other Pacific Flyway States; and (2) Council recommends that brant season length be restored to 107 days.

Public Comment Invited

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. We intend that adopted final rules be as responsive as possible to all concerned interests and, therefore, seek the comments and suggestions of the public, other concerned governmental agencies, nongovernmental organizations, and other private interests on these proposals. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations to the address indicated under the caption **ADDRESSES**.

Special circumstances involved in the establishment of these regulations limit the amount of time that we can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) The need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms; and (2) the unavailability, before mid-June, of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, we believe that to allow comment periods past the dates specified is contrary to the public interest. Before promulgation of final migratory game bird hunting regulations, we will take into consideration all comments received. Such comments, and any additional information received, may lead to final regulations that differ from these proposals.

You may inspect comments received on the proposed annual regulations during normal business hours at the Service's office in room 4107, 4501 North Fairfax Drive, Arlington, Virginia. For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments received during the comment period and respond to them after the closing date.

NEPA Consideration

NEPA considerations are covered by the programmatic document ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the address indicated under the caption **ADDRESSES**.

In a notice published in the September 8, 2005, **Federal Register** (70 FR 53376), we announced our intent to develop a new Supplemental Environmental Impact Statement for the migratory bird hunting program. Public scoping meetings were held in the spring of 2006, and were detailed in a March 9, 2006, **Federal Register** notice (71 FR 12216).

Endangered Species Act Consideration

Prior to issuance of the 2006–07 migratory game bird hunting regulations, we will comply with provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543; hereinafter the Act), to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and is consistent with conservation programs for those species. Consultations under Section 7 of this Act may cause us to change proposals in this and future supplemental proposed rulemaking documents.

Executive Order 12866

The migratory bird hunting regulations are economically significant and were reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. As such, a cost/benefit analysis was initially prepared in 1981. This analysis was subsequently revised annually from 1990–96, updated in 1998, and updated again in 2004. It is further discussed below under the heading Regulatory Flexibility Act. Results from the 2004 analysis indicate that the expected welfare benefit of the annual migratory bird hunting frameworks is on the order of $734 million to $1.064 billion, with a mid-point estimate of $899 million. Copies of the cost/benefit analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.migratorybirds.gov*.

Executive Order 12866 also requires each agency to write regulations that are easy to understand. We invite comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections?

(5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule?

(6) What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov*.

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis discussed under Executive Order 12866. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, and 2004. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2004 Analysis was based on the 2001 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $481 million and $1.2 billion at small businesses in 2004. Copies of the Analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.migratorybirds.gov*.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995 (PRA). There are no new information collections in this proposed rule that would require OMB approval under the PRA. The existing various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the surveys associated with the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 2/29/2008). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Survey and assigned clearance number 1018–0023 (expires 11/30/2007). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of the harvest, and the portion it constitutes of the total population. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2

U.S.C. 1502 et seq., that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that this proposed rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this proposed rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2006–07 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742a–j.

Dated: May 17, 2006.

Matt Hogan,

Acting Assistant Secretary for Fish and Wildlife and Parks.

BILLING CODE 4310–55–P

REGULATORY ALTERNATIVES FOR DUCK HUNTING DURING THE 2006-07 SEASON

	ATLANTIC FLYWAY			MISSISSIPPI FLYWAY			CENTRAL FLYWAY (a)			PACIFIC FLYWAY (b)(c)		
	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB
Beginning Shooting Time	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise
Ending Shooting Time	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset
Opening Date	Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24
Closing Date	Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.
Season Length (in days)	30	45	60	30	45	60	39	60	74	60	86	107
Daily Bag/ Possession Limit	3 6	6 12	6 12	3 6	6 12	6 12	3 6	6 12	6 12	4 8	7 14	7 14
Species/Sex Limits within the Overall Daily Bag Limit												
Mallard (Total/Female)	3/1	4/2	4/2	2/1	4/1	4/2	3/1	5/1	5/2	3/1	5/2	7/2

(a) In the High Plains Mallard Management Unit, all regulations would be the same as the remainder of the Central Flyway, with the exception of season length. Additional days would be allowed under the various alternatives as follows: restrictive - 12, moderate and liberal - 23. Under all alternatives, additional days must be on or after the Saturday nearest December 10.

(b) In the Columbia Basin Mallard Management Unit, all regulations would be the same as the remainder of the Pacific Flyway, with the exception of season length. Under all alternatives except the liberal alternative, an additional 7 days would be allowed.

(c) In Alaska, framework dates, bag limits, and season length would be different from the remainder of the Pacific Flyway. The bag limit would be 5-7 under the restrictive alternative, and 8-10 under the moderate and liberal alternatives. Under all alternatives, season length would be 107 days and framework dates would be Sep. 1 - Jan. 26.

[FR Doc. 06–4896 Filed 5–26–06; 8:45 am]
BILLING CODE 4310–55–C

Reader Aids

Federal Register

Vol. 71, No. 103

Tuesday, May 30, 2006

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**
Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives. gov/federal__register/**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.
To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.
PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.
To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.
FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.
Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**
The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, MAY

25483–25738 1
25739–25918 2
25919–26188 3
26189–26408 4
26409–26674 5
26675–26816 8
26817–27184 9
27185–27382 10
27383–27582 11
27583–27944 12
27945–28226 15
28227–28544 16
28545–28758 17
28759–29060 18
29061–29240 19
29241–29564 22
29565–29756 23
29757–30046 24
30047–30262 25
30263–30558 26
30559–30792 30

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8007 25735
8008 25917
8009 26183
8010 26185
8011 26187
8012 26675
8013 27183
8014 28227
8015 28541
8016 28745
8017 28747
8018 28749
8019 29059
8020 29757
8021 29759
8022 30045
8023 30557
8024 30559
Executive Orders:
11030 (Amended by 13403) 28543
12722 (See Notice of May 18, 2006) 29237
12724 (See Notice of May 18, 2006) 29237
12820 (Revoked by EO 13401) 25737
13011 (Revoked by 13403) 28543
13047 (See Notice of May 18, 2006) 29239
13067 (See EO 13400) 25483
13222 of August 17, 2001 (See P.D. 2006–14) 30551
13279 (Amended by 13403) 28543
13303 (See Notice of May 18, 2006) 29237
13310 (See Notice of May 18, 2006) 29239
13315 (See Notice of May 18, 2006) 29237
13338 (See Notice of May 8, 2006) 27381
13339 (Amended by 13403) 28543
13350 (See Notice of May 18, 2006) 29237
13364 (See Notice of May 18, 2006) 29237
13381 (Amended by 13403) 28543
13389 (Amended by 13403) 28543
13399 (See Notice of May 8, 2006) 27381
13400 25483
13401 25737
13402 27945
13403 28543
Administrative Orders:
Memorandums:
Memorandum of May 5, 2006 27943
Memorandum of May 5, 2006 28753
Memorandum of May 5, 2006 28755
Memorandum of May 8, 2006 28757
Memorandum of May 12, 2006 30549
Memorandum of May 18, 2006 30553
Notices:
Notice of May 8, 2006 ..... 27381, 29237, 29239
Presidential Determinations:
No. 2006-12 of April 13, 2006 26409
No. 2006-13 of May 4, 2006 27383
No. 2006-14 of May 12, 2006 30551

5 CFR

410 28545
724 27185
2634 28229
2640 28229
Proposed Rules:
250 29593
551 30301
2635 27427

6 CFR

Proposed Rules:
5 26706

7 CFR

56 26189
210 30561
220 30561
226 30561
271 26677
272 28759
301 ..... 29761, 29762
305 25487
319 ..... 25487, 26677, 29241, 29766, 30563
614 28239
625 28547
701 30263
985 30266
760 27188
780 30568
905 27583
924 26817
944 26817
945 29565

989.....29567, 30574
1001.....25495, 28248
1005.....25495, 28248
1006.....25495, 28248
1007.....25495, 28248
1030.....25495, 28248
1032.....25495, 28248
1033.....25495, 28248
1124.....25495, 28248
1126.....25475, 28248
1131.....25495, 28248
1219.....26821
1924.....25739

Proposed Rules:

319.....29846
762.....27978
959.....30629
1000.....28590
1218.....30317
1427.....30318
3403.....28780

8 CFR

1.....27585
103.....29571
245.....27585
1001.....27585
1245.....27585

9 CFR

93.....29061, 29769
94.....28763, 29061
98.....29061
417.....26677

Proposed Rules:

390.....27211

10 CFR

50.....29244
72 .....25740, 29244, 30576
170.....30722
171.....30722
600.....27158
603.....27158, 29219
950.....28200

Proposed Rules:

50.....26267, 29273
53.....26267
72.....25782, 29273
430.....26275

12 CFR

201.....28562
202.....28563
226.....30577
611.....25919
612.....25919
614.....25919
615.....25919
620.....25919
1412.....25743

Proposed Rules:

327 .....28790, 28804, 28809, 30069

13 CFR

Proposed Rules:

120.....30323
121.....28604

14 CFR

13.....22518
23 .....28764, 29574, 30577
25.....26189
39 .....25744, 25919, 25921, 25924, 25926, 25928, 25930, 26191, 26679, 26682, 26685, 26823, 27321, 27592, 27593, 27595, 27598, 27600, 27794, 27949, 28250, 28254, 28256, 28257, 28259, 28420, 28563, 28565, 28570, 28766, 28769, 29072, 29219, 29578, 29580, 29583, 29586, 30047, 30050, 30051, 30053, 30270, 30272, 30275, 30278, 30281, 30577
71 .....30579, 30580, 30581
73.....26194, 29247
95.....27602
97 .....25932, 26196, 27953, 30582, 30584
183.....28773
1260.....28774

Proposed Rules:

39 .....25510, 25783, 25785, 25787, 25789, 25793, 25984, 25987, 26282, 26423, 26707, 26873, 26875, 26877, 26880, 26882, 26884, 26888, 26890, 26891, 27212, 27215, 28287, 28611, 28615, 28619, 28622, 28626, 28628, 28819, 28821, 28825, 28827, 29090, 29092, 29275, 29595, 30070, 30072, 30074, 30078, 30086, 30089, 30090, 30331, 30335, 30338, 30340, 30343, 30346
71 .....26284, 27429, 27430, 30631
193.....30094
204.....26425
399.....26425

15 CFR

740.....30283
756.....27604
766.....27604
774.....25746

Proposed Rules:

922.....29096

16 CFR

305.....28921

Proposed Rules:

310.....25512
1115.....30350

17 CFR

200.....27385
242.....30038

18 CFR

2.....28422
33.....28422
35.....26199, 30284
37.....26199
38.....26199
41.....29779
101.....28513
158.....29779
284.....30284
286.....29779
292.....30585
349.....29779
358.....30056
365.....28446
366.....28446

Proposed Rules:

153.....30632
157.....30632
366.....28464
367.....28464
368.....28464
369.....28464
375.....28464, 30632
385.....30632

19 CFR

101.....28261
122.....28261

20 CFR

404.....26411
416.....28262
498.....28574

21 CFR

101.....29248
210.....25747
510.....27954, 28265
522.....28265
558.....27606, 27954
1271.....27606

Proposed Rules:

1271.....27649
1300.....30097

22 CFR

41.....30589
1100.....25934

Proposed Rules:

181.....28831

23 CFR

625.....26412

Proposed Rules:

630.....30100
635.....30100
636.....30100
655.....26711
657.....25516
658.....25516
1350.....29855

24 CFR

570.....30026, 30030

Proposed Rules:

234.....29754

25 CFR

542.....27385

Proposed Rules:

502.....30232, 30238
546.....30238

26 CFR

1 .....25747, 26687, 26688, 26826, 28266, 30591
301.....27321
602.....30591

Proposed Rules:

1 .....26721, 26722, 29847, 30640
602.....29847

27 CFR

4.....25748
19.....25752
40.....25752

Proposed Rules:

9.....25795

28 CFR

Proposed Rules:

551.....27652

29 CFR

70.....30762
220.....29250
1601.....26827
1603.....26827
1610.....26827
1615.....26827
1621.....26827
1626.....26827
2550.....29219
2578.....29073
4022.....27959
4044.....27959

30 CFR

6.....28581
7.....28581
18.....28581
48.....29785
50.....29785
57.....28924
75.....29785
250.....28080, 29710

Proposed Rules:

250.....29277, 29280
917.....25989
924.....29867
938.....29597
942.....25992
943.....29285

31 CFR

50.....27564
103.....26213
535.....29251
536.....29251
537.....29251
538.....29251
539.....29251
540.....29251
541.....29251
542.....29251
560.....29251
588.....29251
594.....27199, 29251
595.....27199, 29251
597.....27199

Proposed Rules:

50.....27573
103.....27980

32 CFR

202.....27610, 30719
206.....26831, 28267
211.....30608
275.....26220
390.....26831
398.....30608
635.....27961
701.....27536

33 CFR

100 .....26225, 26227, 26229, 30609, 30611, 30613
110.....30615
117 .....26414, 26831, 26832, 29079, 30058
165 .....26230, 26416, 26419, 27621, 28775, 30060, 30062, 30064
207.....25502

Proposed Rules:

Ch. I.....30352
1.....29462
20.....29462

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MAY 30, 2006

DEFENSE DEPARTMENT

DoD Foreign Tax Relief Program and Defense Logistics Agency; CFR parts removed; published 5-30-06

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Energy conservation:

Distribution transformers; test procedures; published 4-27-06

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Iowa; published 3-30-06

Maryland; published 3-31-06

Pennsylvania; published 4-28-06

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Kansas; published 5-3-06

Ohio; published 5-3-06

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Health care access:

Group health insurance market requirements; mental health parity; published 4-28-06

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:

Washington; published 4-28-06

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Manufactured home construction and safety standards:

Manufacturing Housing Consensus Committee; recommendations; published 11-30-05

Manufacturing Housing Consensus Committee; recommendations; technical correction; published 4-17-06

LABOR DEPARTMENT

Occupational Safety and Health Administration

Safety and health standards, etc.:

Hexavalent chromium; occupational exposure; published 2-28-06

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Standard instrument approach procedures; published 5-30-06

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Business electronic filing and burden reduction; published 5-30-06

VETERANS AFFAIRS DEPARTMENT

Organization, functions, and authority delegations:

Housing Loan Guaranty Program; property management contractors; published 5-30-06

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Apricots grown in Washington; comments due by 6-5-06; published 4-5-06 [FR 06-03240]

Cherries (sweet) grown in—

Washington; comments due by 6-9-06; published 4-10-06 [FR 06-03419]

Cherries (tart) grown in Michigan, et al.; comments due by 6-5-06; published 4-5-06 [FR 06-03238]

Nectarines and peaches grown in—

California; comments due by 6-9-06; published 4-10-06 [FR 06-03420]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Plant Protection Act; special needs requests; comments due by 6-5-06; published 4-4-06 [FR E6-04840]

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Export programs:

Commodities procurement for foreign donation; Open for comments until further notice; published 12-16-05 [FR E5-07460]

AGRICULTURE DEPARTMENT

Farm Service Agency

Special programs:

Hurricane disaster programs; comments due by 6-9-06; published 5-10-06 [FR 06-04278]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleutian Islands king and tanner crab; comments due by 6-5-06; published 4-20-06 [FR E6-05945]

North Pacific halibut, sablefish, and Bering Sea and Aleutian Islands crab; comments due by 6-7-06; published 5-8-06 [FR E6-06925]

West Coast States and Western Pacific fisheries—

Pacific Coast groundfish; correction; comments due by 6-6-06; published 5-22-06 [FR 06-04738]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution; standards of performance for new stationary sources:

Alternative work practice to detect leaks from equipment; comments due by 6-5-06; published 4-6-06 [FR E6-05005]

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Pennsylvania; comments due by 6-5-06; published 5-4-06 [FR E6-06771]

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

West Virginia; comments due by 6-5-06; published 5-4-06 [FR E6-06754]

Air quality implementation plans; approval and promulgation; various States:

Maryland; comments due by 6-7-06; published 5-8-06 [FR 06-04198]

Nevada; comments due by 6-8-06; published 5-9-06 [FR E6-07032]

New Jersey; comments due by 6-8-06; published 5-9-06 [FR 06-04287]

Hazardous waste program authorizations:

Virginia; comments due by 6-9-06; published 5-10-06 [FR 06-04201]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Novaluron; comments due by 6-5-06; published 4-5-06 [FR 06-03261]

Pyraclostrobin; comments due by 6-5-06; published 4-5-06 [FR 06-03262]

FEDERAL COMMUNICATIONS COMMISSION

Radio services, special:

Private land mobile radio services—

764-776 MHz and 794-806 MHz public safety bands; operational, technical, and spectrum requirements; comments due by 6-6-06; published 4-7-06 [FR E6-05108]

Radio stations; table of assignments:

Minnesota; comments due by 6-6-06; published 5-3-06 [FR E6-06612]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare:

Hospital discharges; notification procedures; comments due by 6-5-06; published 4-5-06 [FR 06-03264]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:

North Carolina; comments due by 6-5-06; published 4-6-06 [FR E6-04899]

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:

Nahant Bay, Lynn, MA; Fourth of July fireworks display; comments due by 6-5-06; published 5-4-06 [FR E6-06740]

North American right whale vessel strikes reduction; port access routes study

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 4297/P.L. 109–222

Tax Increase Prevention and Reconciliation Act of 2005 (May 17, 2006; 120 Stat. 345)

H.J. Res. 83/P.L. 109–223

To memorialize and honor the contribution of Chief Justice William H. Rehnquist. (May 18, 2006; 120 Stat. 374)

S. 1382/P.L. 109–224

To require the Secretary of the Interior to accept the conveyance of certain land, to be held in trust for the benefit of the Puyallup Indian tribe. (May 18, 2006; 120 Stat. 376)

Last List May 16, 2006

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $1195.00 domestic, $298.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1	(869–060–00001–4)	5.00	[4]Jan. 1, 2006
2	(869–060–00002–0)	5.00	Jan. 1, 2006
3 (2003 Compilation and Parts 100 and 101)	(869–056–00003–1)	35.00	[1] Jan. 1, 2005
4	(869–060–00004–6)	10.00	Jan. 1, 2006
5 Parts:			
1–699	(869–060–00005–4)	60.00	Jan. 1, 2006
700–1199	(869–060–00006–2)	50.00	Jan. 1, 2006
1200–End	(869–060–00007–1)	61.00	Jan. 1, 2006
6	(869–060–00008–9)	10.50	Jan. 1, 2006
7 Parts:			
1–26	(869–060–00009–7)	44.00	Jan. 1, 2006
27–52	(869–060–00010–1)	49.00	Jan. 1, 2006
53–209	(869–060–00011–9)	37.00	Jan. 1, 2006
210–299	(869–060–00012–7)	62.00	Jan. 1, 2006
300–399	(869–060–00013–5)	46.00	Jan. 1, 2006
400–699	(869–060–00014–3)	42.00	Jan. 1, 2006
700–899	(869–060–00015–1)	43.00	Jan. 1, 2006
900–999	(869–060–00016–0)	60.00	Jan. 1, 2006
1000–1199	(869–060–00017–8)	22.00	Jan. 1, 2006
1200–1599	(869–060–00018–6)	61.00	Jan. 1, 2006
1600–1899	(869–060–00019–4)	64.00	Jan. 1, 2006
1900–1939	(869–060–00020–8)	31.00	Jan. 1, 2006
1940–1949	(869–060–00021–6)	50.00	Jan. 1, 2006
1950–1999	(869–060–00022–4)	46.00	Jan. 1, 2006
2000–End	(869–060–00023–2)	50.00	Jan. 1, 2006
8	(869–060–00024–1)	63.00	Jan. 1, 2006
9 Parts:			
1–199	(869–060–00025–9)	61.00	Jan. 1, 2006
200–End	(869–060–00026–7)	58.00	Jan. 1, 2006
10 Parts:			
1–50	(869–060–00027–5)	61.00	Jan. 1, 2006
51–199	(869–060–00028–3)	58.00	Jan. 1, 2006
200–499	(869–060–00029–1)	46.00	Jan. 1, 2006
500–End	(869–060–00030–5)	62.00	Jan. 1, 2006
11	(869–060–00031–3)	41.00	Jan. 1, 2006
12 Parts:			
1–199	(869–060–00032–1)	34.00	Jan. 1, 2006
200–219	(869–060–00033–0)	37.00	Jan. 1, 2006
220–299	(869–060–00034–8)	61.00	Jan. 1, 2006
300–499	(869–060–00035–6)	47.00	Jan. 1, 2006
500–599	(869–060–00036–4)	39.00	Jan. 1, 2006
600–899	(869–056–00037–5)	56.00	Jan. 1, 2005
900–End	(869–060–00038–1)	50.00	Jan. 1, 2006
13	(869–060–00039–9)	55.00	Jan. 1, 2006
14 Parts:			
1–59	(869–060–00040–2)	63.00	Jan. 1, 2006
60–139	(869–060–00041–1)	61.00	Jan. 1, 2006
140–199	(869–060–00042–9)	30.00	Jan. 1, 2006
200–1199	(869–060–00043–7)	50.00	Jan. 1, 2006
1200–End	(869–060–00044–5)	45.00	Jan. 1, 2006
15 Parts:			
0–299	(869–060–00045–3)	40.00	Jan. 1, 2006
300–799	(869–060–00046–1)	60.00	Jan. 1, 2006
800–End	(869–060–00047–0)	42.00	Jan. 1, 2006
16 Parts:			
0–999	(869–060–00048–8)	50.00	Jan. 1, 2006
1000–End	(869–060–00049–6)	60.00	Jan. 1, 2006
17 Parts:			
1–199	(869–060–00051–8)	50.00	Apr. 1, 2006
200–239	(869–056–00052–9)	58.00	Apr. 1, 2005
240–End	(869–056–00053–7)	62.00	Apr. 1, 2005
18 Parts:			
1–399	(869–056–00054–5)	62.00	Apr. 1, 2005
400–End	(869–060–00055–1)	26.00	[6]Apr. 1, 2006
19 Parts:			
1–140	(869–056–00056–1)	61.00	Apr. 1, 2005
141–199	(869–056–00057–0)	58.00	Apr. 1, 2005
200–End	(869–056–00058–8)	31.00	Apr. 1, 2005
20 Parts:			
1–399	(869–056–00059–6)	50.00	Apr. 1, 2005
400–499	(869–056–00060–0)	64.00	Apr. 1, 2005
500–End	(869–056–00061–8)	63.00	Apr. 1, 2005
21 Parts:			
1–99	(869–056–00062–6)	42.00	Apr. 1, 2005
100–169	(869–056–00063–4)	49.00	Apr. 1, 2005
170–199	(869–056–00064–2)	50.00	Apr. 1, 2005
200–299	(869–056–00065–1)	17.00	Apr. 1, 2005
300–499	(869–056–00066–9)	31.00	Apr. 1, 2005
500–599	(869–056–00067–7)	47.00	Apr. 1, 2005
600–799	(869–056–00068–5)	15.00	Apr. 1, 2005
800–1299	(869–056–00069–3)	58.00	Apr. 1, 2005
1300–End	(869–056–00070–7)	24.00	Apr. 1, 2005
22 Parts:			
1–299	(869–056–00071–5)	63.00	Apr. 1, 2005
300–End	(869–060–00072–1)	45.00	[10]Apr. 1, 2006
23	(869–056–00073–1)	45.00	Apr. 1, 2005
24 Parts:			
0–199	(869–056–00074–0)	60.00	Apr. 1, 2005
200–499	(869–056–00074–0)	50.00	Apr. 1, 2005
500–699	(869–056–00076–6)	30.00	Apr. 1, 2005
700–1699	(869–056–00077–4)	61.00	Apr. 1, 2005
1700–End	(869–056–00078–2)	30.00	Apr. 1, 2005
25	(869–056–00079–1)	63.00	Apr. 1, 2005
26 Parts:			
§§ 1.0–1–1.60	(869–056–00080–4)	49.00	Apr. 1, 2005
§§ 1.61–1.169	(869–056–00081–2)	63.00	Apr. 1, 2005
§§ 1.170–1.300	(869–056–00082–1)	60.00	Apr. 1, 2005
§§ 1.301–1.400	(869–056–00083–9)	46.00	Apr. 1, 2005
§§ 1.401–1.440	(869–056–00084–7)	62.00	Apr. 1, 2005
§§ 1.441–1.500	(869–056–00085–5)	57.00	Apr. 1, 2005
§§ 1.501–1.640	(869–056–00086–3)	49.00	Apr. 1, 2005
§§ 1.641–1.850	(869–056–00087–1)	60.00	Apr. 1, 2005
§§ 1.851–1.907	(869–056–00088–0)	61.00	Apr. 1, 2005
§§ 1.908–1.1000	(869–056–00089–8)	60.00	Apr. 1, 2005
§§ 1.1001–1.1400	(869–056–00090–1)	61.00	Apr. 1, 2005
§§ 1.1401–1.1550	(869–056–00091–0)	55.00	Apr. 1, 2005
§§ 1.1551–End	(869–056–00092–8)	55.00	Apr. 1, 2005
2–29	(869–056–00093–6)	60.00	Apr. 1, 2005
30–39	(869–056–00094–4)	41.00	Apr. 1, 2005
40–49	(869–056–00095–2)	28.00	Apr. 1, 2005
50–299	(869–056–00096–1)	41.00	Apr. 1, 2005

Title	Stock Number	Price	Revision Date
300–499	(869–056–00097–9)	61.00	Apr. 1, 2005
500–599	(869–060–00098–4)	12.00	[5]Apr. 1, 2006
600–End	(869–056–00099–5)	17.00	Apr. 1, 2005
27 Parts:			
1–199	(869–056–00100–2)	64.00	Apr. 1, 2005
200–End	(869–056–00101–1)	21.00	Apr. 1, 2005
28 Parts:			
0–42	(869–056–00102–9)	61.00	July 1, 2005
43–End	(869–056–00103–7)	60.00	July 1, 2005
29 Parts:			
0–99	(869–056–00104–5)	50.00	July 1, 2005
100–499	(869–056–00105–3)	23.00	July 1, 2005
500–899	(869–056–00106–1)	61.00	July 1, 2005
900–1899	(869–056–00107–0)	36.00	[7]July 1, 2005
1900–1910 (§§ 1900 to 1910.999)	(869–056–00108–8)	61.00	July 1, 2005
1910 (§§ 1910.1000 to end)	(869–056–00109–6)	58.00	July 1, 2005
1911–1925	(869–056–00110–0)	30.00	July 1, 2005
1926	(869–056–00111–8)	50.00	July 1, 2005
1927–End	(869–056–00112–6)	62.00	July 1, 2005
30 Parts:			
1–199	(869–056–00113–4)	57.00	July 1, 2005
200–699	(869–056–00114–2)	50.00	July 1, 2005
700–End	(869–056–00115–1)	58.00	July 1, 2005
31 Parts:			
0–199	(869–056–00116–9)	41.00	July 1, 2005
200–499	(869–056–00117–7)	33.00	July 1, 2005
500–End	(869–056–00118–5)	33.00	July 1, 2005
32 Parts:			
1–39, Vol. I		15.00	[2]July 1, 1984
1–39, Vol. II		19.00	[2]July 1, 1984
1–39, Vol. III		18.00	[2]July 1, 1984
1–190	(869–056–00119–3)	61.00	July 1, 2005
191–399	(869–056–00120–7)	63.00	July 1, 2005
400–629	(869–056–00121–5)	50.00	July 1, 2005
630–699	(869–056–00122–3)	37.00	July 1, 2005
700–799	(869–056–00123–1)	46.00	July 1, 2005
800–End	(869–056–00124–0)	47.00	July 1, 2005
33 Parts:			
1–124	(869–056–00125–8)	57.00	July 1, 2005
125–199	(869–056–00126–6)	61.00	July 1, 2005
200–End	(869–056–00127–4)	57.00	July 1, 2005
34 Parts:			
1–299	(869–056–00128–2)	50.00	July 1, 2005
300–399	(869–056–00129–1)	40.00	[7]July 1, 2005
400–End & 35	(869–056–00130–4)	61.00	July 1, 2005
36 Parts:			
1–199	(869–056–00131–2)	37.00	July 1, 2005
200–299	(869–056–00132–1)	37.00	July 1, 2005
300–End	(869–056–00133–9)	61.00	July 1, 2005
37	(869–056–00134–7)	58.00	July 1, 2005
38 Parts:			
0–17	(869–056–00135–5)	60.00	July 1, 2005
18–End	(869–056–00136–3)	62.00	July 1, 2005
39	(869–056–00139–1)	42.00	July 1, 2005
40 Parts:			
1–49	(869–056–00138–0)	60.00	July 1, 2005
50–51	(869–056–00139–8)	45.00	July 1, 2005
52 (52.01–52.1018)	(869–056–00140–1)	60.00	July 1, 2005
52 (52.1019–End)	(869–056–00141–0)	61.00	July 1, 2005
53–59	(869–056–00142–8)	31.00	July 1, 2005
60 (60.1–End)	(869–056–00143–6)	58.00	July 1, 2005
60 (Apps)	(869–056–00144–4)	57.00	July 1, 2005
61–62	(869–056–00145–2)	45.00	July 1, 2005
63 (63.1–63.599)	(869–056–00146–1)	58.00	July 1, 2005
63 (63.600–63.1199)	(869–056–00147–9)	50.00	July 1, 2005
63 (63.1200–63.1439)	(869–056–00148–7)	50.00	July 1, 2005
63 (63.1440–63.6175)	(869–056–00149–5)	32.00	July 1, 2005
63 (63.6580–63.8830)	(869–056–00150–9)	32.00	July 1, 2005
63 (63.8980–End)	(869–056–00151–7)	35.00	[7]July 1, 2005
64–71	(869–056–00152–5)	29.00	July 1, 2005
72–80	(869–056–00153–5)	62.00	July 1, 2005
81–85	(869–056–00154–1)	60.00	July 1, 2005
86 (86.1–86.599–99)	(869–056–00155–0)	58.00	July 1, 2005
86 (86.600–1–End)	(869–056–00156–8)	50.00	July 1, 2005
87–99	(869–056–00157–6)	60.00	July 1, 2005
100–135	(869–056–00158–4)	45.00	July 1, 2005
136–149	(869–056–00159–2)	61.00	July 1, 2005
150–189	(869–056–00160–6)	50.00	July 1, 2005
190–259	(869–056–00161–4)	39.00	July 1, 2005
260–265	(869–056–00162–2)	50.00	July 1, 2005
266–299	(869–056–00163–1)	50.00	July 1, 2005
300–399	(869–056–00164–9)	42.00	July 1, 2005
400–424	(869–056–00165–7)	56.00	[8]July 1, 2005
425–699	(869–056–00166–5)	61.00	July 1, 2005
700–789	(869–056–00167–3)	61.00	July 1, 2005
790–End	(869–056–00168–1)	61.00	July 1, 2005
41 Chapters:			
1, 1–1 to 1–10		13.00	[3]July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3]July 1, 1984
3–6		14.00	[3]July 1, 1984
7		6.00	[3]July 1, 1984
8		4.50	[3]July 1, 1984
9		13.00	[3]July 1, 1984
10–17		9.50	[3]July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3]July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3]July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3]July 1, 1984
19–100		13.00	[3]July 1, 1984
1–100	(869–056–00169–0)	24.00	July 1, 2005
101	(869–056–00170–3)	21.00	July 1, 2005
102–200	(869–056–00171–1)	56.00	July 1, 2005
201–End	(869–056–00172–0)	24.00	July 1, 2005
42 Parts:			
1–399	(869–056–00173–8)	61.00	Oct. 1, 2005
400–429	(869–056–00174–6)	63.00	Oct. 1, 2005
430–End	(869–056–00175–4)	64.00	Oct. 1, 2005
43 Parts:			
1–999	(869–056–00176–2)	56.00	Oct. 1, 2005
1000–end	(869–056–00177–1)	62.00	Oct. 1, 2005
44	(869–056–00178–9)	50.00	Oct. 1, 2005
45 Parts:			
1–199	(869–056–00179–7)	60.00	Oct. 1, 2005
200–499	(869–056–00180–1)	34.00	Oct. 1, 2005
500–1199	(869–056–00171–9)	56.00	Oct. 1, 2005
1200–End	(869–056–00182–7)	61.00	Oct. 1, 2005
46 Parts:			
1–40	(869–056–00183–5)	46.00	Oct. 1, 2005
41–69	(869–056–00184–3)	39.00	[9]Oct. 1, 2005
70–89	(869–056–00185–1)	14.00	[9]Oct. 1, 2005
90–139	(869–056–00186–0)	44.00	Oct. 1, 2005
140–155	(869–056–00187–8)	25.00	Oct. 1, 2005
156–165	(869–056–00188–6)	34.00	[9]Oct. 1, 2005
166–199	(869–056–00189–4)	46.00	Oct. 1, 2005
200–499	(869–056–00190–8)	40.00	Oct. 1, 2005
500–End	(869–056–00191–6)	25.00	Oct. 1, 2005
47 Parts:			
0–19	(869–056–00192–4)	61.00	Oct. 1, 2005
20–39	(869–056–00193–2)	46.00	Oct. 1, 2005
40–69	(869–056–00194–1)	40.00	Oct. 1, 2005
70–79	(869–056–00195–9)	61.00	Oct. 1, 2005
80–End	(869–056–00196–7)	61.00	Oct. 1, 2005
48 Chapters:			
1 (Parts 1–51)	(869–056–00197–5)	63.00	Oct. 1, 2005
1 (Parts 52–99)	(869–056–00198–3)	49.00	Oct. 1, 2005
2 (Parts 201–299)	(869–056–00199–1)	50.00	Oct. 1, 2005
3–6	(869–056–00200–9)	34.00	Oct. 1, 2005
7–14	(869–056–00201–7)	56.00	Oct. 1, 2005
15–28	(869–056–00202–5)	47.00	Oct. 1, 2005

Title	Stock Number	Price	Revision Date
29–End	(869–056–00203–3)	47.00	Oct. 1, 2005
49 Parts:			
1–99	(869–056–00204–1)	60.00	Oct. 1, 2005
100–185	(869–056–00205–0)	63.00	Oct. 1, 2005
186–199	(869–056–00206–8)	23.00	Oct. 1, 2005
200–299	(869–056–00207–6)	32.00	Oct. 1, 2005
300–399	(869–056–00208–4)	32.00	Oct. 1, 2005
400–599	(869–056–00209–2)	64.00	Oct. 1, 2005
600–999	(869–056–00210–6)	19.00	Oct. 1, 2005
1000–1199	(869–056–00211–4)	28.00	Oct. 1, 2005
1200–End	(869–056–00212–2)	34.00	Oct. 1, 2005
50 Parts:			
1–16	(869–056–00213–1)	11.00	Oct. 1, 2005
17.1–17.95(b)	(869–056–00214–9)	32.00	Oct. 1, 2005
17.95(c)–end	(869–056–00215–7)	32.00	Oct. 1, 2005
17.96–17.99(h)	(869–056–00215–7)	61.00	Oct. 1, 2005
17.99(i)–end and 17.100–end	(869–056–00217–3)	47.00	Oct. 1, 2005
18–199	(869–056–00218–1)	50.00	Oct. 1, 2005
200–599	(869–056–00218–1)	45.00	Oct. 1, 2005
600–End	(869–056–00219–0)	62.00	Oct. 1, 2005
CFR Index and Findings Aids	(869–060–00050–0)	62.00	Jan. 1, 2006
Complete 2006 CFR set		1,398.00	2006
Microfiche CFR Edition:			
Subscription (mailed as issued)		332.00	2006
Individual copies		4.00	2006
Complete set (one-time mailing)		325.00	2005
Complete set (one-time mailing)		325.00	2004

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2004 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2004 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2003 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2004, through October 1, 2005. The CFR volume issued as of October 1, 2004 should be retained.

[10] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2005 should be retained.